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#### BEFORE THE POSTAL REGULATORY COMMISSION WASHINGTON, D.C. 20268-0001

Mail Processing Network
Rationalization Service Changes, 2011

**DOCKET NO. N2012-1** 

#### REPLY BRIEF OF THE UNITED STATES POSTAL SERVICE

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#### **Table of Contents**

I.	INTR	INTRODUCTION1				
II.	VARIOUS LEGAL AND POLICY ARGUMENTS OF THE PARTIES DO NOT WITHSTAND SCRUTINY4					
	A.	The Commission Should Resist The Public Representative's Advice To Contradict Itself.				
	B.	Review Of Price Discrimination Claims Is Outside The Scope Of Section 3661				
	C.	GCA's Labored Interpretation Of Section 404(c) Ignores Commission Precedent6				
	D.	Various Parties Assert The Existence of Non-Existent Legal Requirements				
		1.	APWU seeks to impose requirements that are inappropriate and unnecessary8			
		2.	GCA creates non-existent standards by which to judge service change proposals11			
	E.	NPMHU's Quest For A Second Bite At The Section 3661 Apple Relies On An Mistaken Self-Contradictory Argument				
	F.	Where Applicable, The Postal Service Satisfies The Public Hearing Requirement Of USPS Handbook PO-40815				
III.	THE NETWORK RATIONALIZATION PROCESS WITHSTANDS INTERVENOR CRITICISM17					
	A.	The Postal Service Modeling Efforts Provided A Reasonable Starting Point For Further Analysis17				
		1.	The modeling critics judge by the wrong standard18			
		2.	The tremendous value of judgment obtained through actual day-to-day management must be acknowledged.			
		3.	There are ample reasons why Public Representative witness Raghavan's analysis is not that informative21			

		4.	Some criticism reflects a fundamental misunderstanding of witness Rosenberg's testimony24		
	B.	Intervenor Criticisms Do Not Diminish The Reliability Of Postal Service Mail Processing Operations Testimony27			
		1.	Witness Neri presents reasonable productivity improvement estimates27		
		2.	AMP study results demonstrate the feasibility of network consolidation30		
		3.	The rationalization plan presented in this docket reflects expert consideration of logistical issues and utility and maintenance costs		
	C.	Record Evidence Affirms That Mail Processing Network Rationalization Will Lead To An Overall Reduction In Transportation Activity Resulting In Significant Cost Savings.			
		1.	Witness Martin's analysis of the plant-to-Post Office network provides a solid basis for witness Bradley's cost-savings calculations.		
		2.	Witnesses Martin and Bradley use sound methodologies to determine cost savings attributable to reductions in plant-to-plant trips.		
		3.	Estimated cost savings attributable to potential PVS to HCR conversions were appropriately included in the overall cost savings estimates		
IV.	CHAI	LENG	VENORS HAVE FAILED TO PRESENT A CREDIBLE SE TO THE POSTAL SERVICE'S COST SAVINGS  343		
	A.	The Intervenors Have Not Shown Any Significant Flaws In The Baseline Used To Estimate Cost Savings43			
	B.	The Intervenors Have Not Shown That Transition Costs Will Negate The Benefits Of Network Rationalization4			
	C.	APWU And NPMHU's "Placeholder" Cost Savings Estimate Arguments Seriously Misrepresent The Evidentiary Record45			
	D.		Public Representative's New, Last-Minute Cost Savings ysis Is, In Addition To Being Inadmissible, Wrong46		

	E.	The Postal Service Properly Determined Employee Relocation Costs51			
V.	OPPOSITION TO RELIANCE UPON THE PHASE 2 QUANTITATIVE MARKET RESEARCH ESTIMATES OF THE IMPACT ON MAIL VOLUME CAUSED BY MPNR IS BASED ON WISHFUL THINKING, NOT SCIENCE				
	A.	The Only Valid Estimation Of Impact Upon Mail Volume Of Changes In Service Standards Derives From The Phase 2 Research			
	В.	Confidence Intervals, Properly Utilized, Can Provide Useful Information About Survey Research Estimates61			
	C.	The Public Representative Conflates Risk Sources Thereby Wandering Off The Reservation63			
	D.	The Quantitative Market Research Results Stand Un-rebutted As The Only Accurate Estimate Of Change In Mail Volume, Revenue And Contribution Caused By MPNR64			
	E.	Supplement67			
VI.	OTHER INTERVENOR CRITICISMS ARE UNPERSUASIVE AND LACK EVIDENTIARY SUPPORT				
	A.	National Newspaper Association's Concerns Are Speculative And Unsubstantiated68			
		1. NNA underestimates the Postal Service's willingness to consider the Commission's advice and the concerns of stakeholders and rural residents			
		2. NNA's concerns regarding the impacts of Network Rationalization lack evidentiary support or are tangential to the core issues in this proceeding70			
	B.	Mr. Popkin's Initial Comments Should Be Rejected Or Dismissed72			
VII.	VII. CONCLUSION.				

#### I. INTRODUCTION.

In its July 10, 2012 Initial Brief, the United States Postal Service summarizes the evidence of record in Docket No. N2012-1, the scope of the Commission's responsibilities under 39 U.S.C. § 3661, and the legal standards that apply to the exercise of those responsibilities as they relate to the service changes under review. The USPS Initial Brief explains why the advisory opinion the Postal Service has requested from the Commission should conclude that the changes in the nature of service being implemented are consistent with relevant policies of title 39, United States Code.

Because the major facets of the case were discussed in its Initial Brief, the Postal Service will not in this Reply Brief attempt to revisit every matter touched upon in that document. Instead, the Postal Service will focus primarily on arguments propounded by various parties in their July 10 and 11, 2012, Initial Briefs in order to demonstrate that none of its critics has provided a basis for the Commission to conclude that the changes in the nature of service under review are inconsistent with the policies of title 39, or that the Postal Service should not continue with either phase of its implementation of the service standard changes announced on May 25, 2012. The fact that the Postal Service has not chosen to respond to every argument presented in each intervenor's initial brief should not be interpreted as agreement by the Postal Service with points it does not address below.

The advisory opinion process established by Congress under section 3661 strikes a balance between the previous regime of Congressional control

over the nature of postal service changes and what would otherwise be an unfettered exercise of authority by postal management to make substantially nationwide service changes. The Postal Service's respect for administrative proceedings conducted by the Commission in the exercise of its advisory role is reflected in the wealth of detailed information that the Postal Service submitted in support of its Request in the instant docket: 13 testimonies and 37 library references were filed in support of its December 5, 2011 Request. That effort has been supplemented by written responses to ten detailed information requests from the Presiding Officer, hundreds of multifaceted interrogatories from the parties, the submission of four supplemental testimonies and the appearance of an additional witness in response to a Commission information request, all of which has resulted in the production of more than 60 additional library references.

In responding to discovery, the Postal Service resisted many opportunities to justifiably object to interrogatories that either led to the production of information that was not relevant to any material issue in this proceeding or for which the burden of production greatly exceeded any potential value the information could have to the Commission's task of advising postal management. The Postal Service's forbearance was motivated by senior postal management's desire to provide the Commission with the information necessary to judge the Request and to base its advisory opinion. The Postal Service's respect for the Commission's section 3661 advisory role has been demonstrated by the Postal

Service's delay in implementing the service changes until nearly four months after it was authorized by 39 C.F.R. § 3001.72 to do so.

Accordingly, the Postal Service takes umbrage at the baseless insinuation that it "views Commission proceedings as an irritant . . ." and that it "believes the nature of Commission proceedings make it look bad." Initial Brief of Valpak at 25-26. The Postal Service does not consider Commission proceedings to be an irritant. Were that the case, the Postal Service would not have committed the personnel and resources that it did in providing the wealth of data that the Commission is presently reviewing.

Proceedings under section 3661 are conducted in order for the

Commission to fulfill its limited role as an advisor to postal management, which
otherwise has been granted broad authority to operate the national postal
system. To be sure, section 3661 dockets generate burdens for the

Commission, the Postal Service and others who actively participate. It is prudent
of the Commission to assess whether all burdens endured under its current rules
are necessary to the fulfillment of its statutory advisory responsibility.

Accordingly, the Postal Service welcomes the opportunity to offer its comments
in the currently pending Docket No. RM2012-4 rulemaking. For the record, what
the Postal Service does find irritating and what does make it look bad are
baseless insinuations about its views and beliefs that are offered in legal briefs
by parties who have not conferred with the Postal Service, much less requested
or been granted authority to speak for it.

## II. VARIOUS LEGAL AND POLICY ARGUMENTS OF THE PARTIES DO NOT WITHSTAND SCRUTINY.

In their Initial Briefs, various parties make arguments either expressing their interpretations or characterizations of applicable law and policy, or asserting that the Commission's advisory opinion should include an assessment of issues and policies beyond the limited purpose of review under section 3661.

#### A. The Commission Should Resist The Public Representative's Advice To Contradict Itself.

At page 13 of its Initial Brief, the Public Representative argues that the First-Class Mail and Periodicals service changes being reviewed in this docket constitute a relaxation of the section 3622(d) price cap that has been established for market dominant products. Whether that is so, the section 3661 service change advisory opinion review process is not intended to serve the purpose of assessing whether, when and to what extent adjustments to postal prices are appropriate. Such issues are appropriate to proceedings conducted under authority of section 3622.

The Public Representative "recommends that the Commission consider advising that the Postal Service implement specific service standards coupled with rate adjustment penalties for failing to meet those standards." Public Representative Initial Brief at 14. In light of the specific processes for establishment of and changes to postal prices in mail classifications in section 3622 and 3642, the Postal Service considers the section 3661 review process to be an improper forum for recommending future prices and qualifying terms and

conditions. The Public Representative suggests that the Commission and the Postal Service:

consider the economic link between quality and price when offering advice to Congress in the next round of postal law reform. The link could be a combination of a reward system for exceeding standards and a penalty for failing to meet standards.

*Id.* The Public Representative appears to concede, correctly, that the Commission currently has no authority under section 3661 to impose such linkage. If the section 3661 advisory process is to have meaning, it must be constrained by the limits of current law. It is pointless for the process to devolve into a forum for arguments that the Commission offer advice regarding service changes it is reviewing based on pricing policies not enacted into law. This is particularly the case when the hypothetical policies are ones about which the Commission has recently expressed reservations.<sup>1</sup>

### B. Review Of Price Discrimination Claims Is Outside The Scope Of Section 3661.

In a similar vein, the Initial Brief of Valpak alludes to 39 U.S.C. § 403(c) at pages 11-13 and alleges that current postal prices for a variety of postal products result in unfair preferences and unfair discrimination. Without conceding these allegations, the Postal Service respectfully submits that whether any current postal prices violate the section 403(c) ban against undue and unreasonable preference and discrimination or comply with the pricing policies of sections 3622 or 3633 are questions beyond the scope of the advisory opinion process created

<sup>&</sup>lt;sup>1</sup> In any event, the Commission is already of the view that Congress should not require reductions in price to correspond to a decrease in service. See Postal Regulatory Commission, Section 701 Report: Analysis of the Postal Accountability and Enhancement Act of 2006 at 40 n.36 (September 22, 2011).

by Congress in section 3661, the focus of which is the *nature* of the service, not its price. Such questions are appropriately within the scope of proceedings conducted by the Commission under authority granted by sections 3622 or 3651, for example.<sup>2</sup>

### C. GCA's Labored Interpretation Of Section 404(c) Ignores Commission Precedent.

At page 29 of its Initial Brief, the Greeting Card Association (GCA) fixates on the requirement in 39 U.S.C. § 404(c) that:

One such class [for letters sealed against inspection] shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service.

At pages 29-35, GCA offers a strained interpretation of section 404(c) in an effort suggest that the February 1, 2014 elimination of an overnight service standard for single-piece First-Class Mail, while retaining an overnight standard for some qualifying Presort First-Class Mail, is prohibited by the above-quoted provision from that section. At page 35, n.74, GCA argues that, section 404(c) makes such a distinction "not legally advisable." GCA suggests that "[t]he expressions used in the critical sentence of § 404(c) are, admittedly, subject to differing interpretations." GCA Initial Brief at 34. If that is GCA's belief, instead of straining to develop the interpretation of section 404(c) offered at pages 29-35 of its Initial Brief, GCA might have explored whether the Commission has already offered any interpretive guidance. As demonstrated below, it has; and the

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<sup>&</sup>lt;sup>2</sup> The Commission should so affirm, to discourage parties from raising such issues in future section 3661 proceedings.

Commission's differing interpretation makes clear that GCA's tortured statutory analysis is off base.

Section 404(c) requires one or more mail classes to be available for the transmission of letters sealed against inspection, that each such class have a uniformly available rate schedule, and that one of these classes be the most expeditious service offering. On its face, section 404(c) does not identify which class should be the *most expeditious*. At page 29, n.68 of its Initial Brief, GCA remarks that the "Commission long ago made clear that it should be understand [that section404(c)] refer[s] to First-Class Mail." But GCA provides no support for this assertion. In fact, the opposite is true. Not so long ago, in Docket No. MC95-1, the Commission reviewed, inter alia, a Postal Service proposal to rename Express Mail as Expedited Mail, the Commission observed that "the Expedited class satisfies the requirement that '[o]ne such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service." Docket No. MC95-1, PRC Op. at III-3. GCA notes that when the statute was first enacted in 1970, First-Class Mail was the class that satisfied this same requirement,<sup>3</sup> as it was the only sealed mail class open to letters. Since Postal Reorganization, however, the Postal Service created additional mail classes and products. These include Express Mail, which provides more expeditious treatment than First-Class Mail, includes the transmission of letters, and is sealed against inspection. Therefore, Express Mail -- not First Class Mail -- is the most expeditious class of mail and satisfies the section 404(c) criterion.

<sup>&</sup>lt;sup>3</sup> As it appeared in former section 3623(d), the predecessor to current section 404(c).

- D. Various Parties Assert The Existence of Non-Existent Legal Requirements.
  - 1. APWU seeks to impose requirements that are inappropriate and unnecessary.

In justifying a substantially nationwide change in service, it is enough that the Postal Service must satisfy the criteria identified by Congress in title 39, as it has done in this instance, without also having to meet additional objectives concocted by the American Postal Workers Union, AFL-CIO (APWU). The December 5, 2011, Request of the Postal Service, and the testimonies of witnesses Williams (USPS-T-1) and Masse (USPS-T-2) -- as supported by the testimonies and scores of library references sponsored by 11 additional witnesses -- explain how the service changes are consistent with applicable criteria in title 39. *See also* Tr. Vol. 7 at 2436-44. In addition to those criteria, the APWU now argues that the Postal Service must also prove that a proposed service change is "appropriate and necessary." APWU Initial Brief at 9

The word "appropriate" implies the application of set of criteria by which a service change is to be judged. The Postal Service submits that the Congressionally imposed criteria in title 39 exist for judging the "appropriateness" of a substantially nationwide service change, and that the Commission's opinion should focus on those criteria, as opposed to any additional criteria that APWU can imagine. The word "necessary" implies that the service change under review is so vital that, without it, the Postal Service will either cease to operate or face an imminent risk of irreparable harm to a core function or product offering, and that no alternative change or action is feasible or capable of accomplishing the

purposes of the change under review. The statutory scheme imposes no requirement that the Postal Service offer such proof when requesting non-binding advice under section 3661.

At pages 5 through 8 of its Initial Brief, APWU quotes several sections of title 39 and concludes that "the Postal Service is not permitted to make changes to the service it provides without substantial justification." The APWU goes on to state that the Postal Service must show "that the benefits of a change in service are properly weighed against the costs, including cost revenue and limited future opportunities." APWU also argues "that the Postal Service must make significant attempts to retain the level of service provided before claiming that such changes are necessary." APWU Initial Brief at 8. The above-referenced evidence submitted in support of the Request of the Postal Service provide extensive and substantial justification for an advisory opinion affirming that:

- (1) a reduction in the mail processing network and change in its service standards are reasonable, rational, permissible responses to chronic financial instability through which the Postal Service has suffered and is expected to continue suffering;
  and
- (2) the resulting service changes are permitted by applicable policies of title 39.

Witness Williams discusses each of the applicable statutory criteria at pages 2436-44 of Tr. Vol. 7. The Commission will find no directive in title 39 requiring the Postal Service to make "significant attempts" to retain the *status quo* before submitting service changes for review under section 3661. Neither the general service provisions of title 39 nor the service standard objective and factors of

section 3691 contain a formula for ensuring how costs and benefits are "properly weighed," contrary to the assertion of APWU at page 8 of its Initial Brief. The statutory scheme gives broad discretion to postal management in determining how to fulfill the various statutory objectives in title 39.

Reasonable minds may disagree as to how much weight should be given to each of the various factors the Postal Service must consider when planning a service change. In this regard, the observation of the United States Court of Appeals for the District of Columbia Circuit is illuminating. In addressing another portion of title 39 that required consideration of a wide range of factors in postal ratemaking, the court observed that:

the factors listed were not analogous to a table of atomic weights, or to a multiplication table. The factors are reminders of relevant considerations, not counterweights to be placed on scales . . . . No one who seeks fairly and equitably to determine a complicated rate structure ought to suppose that there is a correct answer, or even that in the final mix there should have been added a specified number of spoonfuls or each of the ingredients. A conscientious, competent rate-making body proceeds by opening its mind to relevant considerations and closing its ears to irrelevant ones. It is governed by policies, not politics.

Association of American Publishers v. Governors of the United States Postal Service, 485 F. 2d 768, 774 (D.C. Cir. 1973). The same principle applies here in those areas where the Postal Service has discretion. At page 8 of its Initial Brief, APWU merely provides conclusory remarks and anecdotal evidence as to why the current and projected future circumstances of the Postal Service are not sufficient justification for a change in delivery service standards. In light of the extensive evidence presented by the Postal Service and its consideration of the numerous comments in multiple rounds of Federal Register rulemaking, there are

no legal impediments to a continuation of the implementation of the service changes under review.

## 2. GCA creates non-existent standards by which to judge service change proposals.

At page 23 of its Initial Brief, GCA raises the bar established by the service change policies in title 39 and argues that service changes must meet additional criteria that find no basis in the law. GCA argues that the Commission cannot issue an advisory opinion responding affirmatively to the Request of the Postal Service because the service changes being implemented were not the product of a process that exhaustively examined and justified the elimination of every conceivable alternative service change proposal. Taking GCA's approach to its logical conclusion, then the Postal Service's September 21, 2011 advance notice of proposed rulemaking (76 Fed. Reg. 58433) was fatally flawed by the fact that it identified service standard changes the Postal Service was considering, without an offer of proof that all other conceivable service change ideas were inferior. 4 The Commission will find no basis for imposing such a standard for judging the service changes under review in this docket, either in the various general policies in sections 101, 403, 404, and 3661, or in the service standard objectives and factors listed in section 3691.

When acting under sections 3661 and 3691, postal management is free to assess various service offerings and single out which ones to change for reasons that do not require comparative analysis of alternative and/or unrelated changes.

<sup>&</sup>lt;sup>4</sup> Presumably, by the same standard, GCA would consider the final service standard rules announced on May 25, 2102 (77 Fed. Reg. 31190) to also be fatally flawed.

Title 39 does not require the Postal Service to demonstrate that it has exhaustively reviewed and proven the infeasibility or inferiority of the entire universe of conceptually possible alternative policy, operational, or service changes before settling on a service change to submit to the Commission for review under section 3661. Accordingly, the Commission should resist calls to evaluate the Request in this docket on such bases.

# E. NPMHU's Quest For A Second Bite At The Section 3661 Apple Relies On An Mistaken Self-Contradictory Argument.

At pages 35-38 of its Initial Brief, the National Postal Mail Handlers
Union (NPMHU) argues that "implementation of Phase II constitutes a "change in
the nature of postal services . . . as compared to Phase I" and that this change
triggers an obligation on the part of the Postal Service to submit yet another
request for an advisory opinion to the Commission for review under section 3661.
NPMHU is wrong as a matter of fact and law and its argument reflects a degree
of intransigence to change that, if adopted by postal management or other
stakeholders, would undermine the long-term well-being of the Postal Service.

There are only relatively minor differences between the service standard changes proposed on December 5, 2011, and the Phase 2 service standards that are scheduled to take effect on February 1, 2014.<sup>5</sup> For all intents and purposes, this docket has been focused on what constitutes the Phase 2 service changes. As the Commission astutely observed:

<sup>&</sup>lt;sup>5</sup> Compare 76 Fed. Reg. 77942 (December 15, 2011) to 77 Fed. Reg. 31190 (May 25, 2012). The only material difference between the proposed rules and the final rules is the establishment of a six-hour (instead of a four-hour) drive time metric to define the outer limit of the First-Class Mail two-day service standard in 39 C.F.R. Part 121.1(b).

At this juncture, the lesser change represented by the phasing appears to be encompassed in the larger change represented by full implementation.

Docket No. C2012-2, PRC Order No. 1387 at 7 (June 29, 2012).

Although NPMHU argues to the contrary at page 26 of its Initial Brief, the Postal Service has not estimated the potential cost savings to be realized from either the summer 2012 operational changes or the complete Phase 1 operational changes associated with the Phase 1 service standard changes. Nor has the Postal Service calculated a day-to-day, week-to-week, month-to-month, quartet-to-quarter, or phase-to-phase accrual of the \$2.1 billion in cost savings estimated by witnesses Smith (USPS-ST-3) and Bradley (USPS-ST-4). Putting aside whether such granular periodic accrual projection estimates could be calculated, such data are not necessary to an opinion regarding whether implementation of the February 2014 service changes would be consistent with the objectives of title 39.

As it relates to the service changes that customers will experience, the implementation of the service standard changes and related operational changes in two phases instead of one is an immaterial adjustment to the light switch/dimmer switch analogy offered by Postal Service witness Williams. See Tr. Vol. 2 at 219-220, 379-80. The expectation that the service standard changes now scheduled for February 2014 would all be implemented at once in 2012, accompanied by a gradual implementation of local operational changes and service impacts over a few years has been replaced by a two-step implementation of the service standard changes, with virtually the same gradual implementation of local operational and service impacts over a few years. The

tweaking of the implementation does not materially affect that nature of the service changes that have now been under intense scrutiny for over seven months in this docket.<sup>6</sup>

NPMHU's Initial Brief is self-contradictory. At pages 35-38, NPMHU argues that a new service change Request must be filed because the Postal Service *has not* provided the cost estimates associated solely with Phase 2 of the service change. But at page 26 of its Initial Brief, NPMHU argues that the Postal Service *has* presented separate estimates of cost savings associated with Phases 1 and 2. There, NPMHU cites Tr. Vol. 9 at 2713-14 and claims that:

by the Postal Service's own calculations, . . . [Phase 1] would not greatly increase the Postal Service's savings. The Postal Service itself has estimated the Phase 2 savings to amount to only \$.9 billion.

This quoted assertion is incorrect in several ways. First, it is refuted by the crystal clear testimony of Postal Service witness Rosenberg. The Postal Service has not separately calculated cost savings associated with the 140 Phase 1 consolidations identified on May 18, 2012. See Tr. Vol. 9 at 2716-18. As witness Rosenberg makes clear, the \$1.2 billion figure is based on a hypothetical set of operational consolidations materially different from those identified as being within the scope of Phase 1, and based on a very rough cost estimation methodology significantly different from that presented in the Docket No. N2012-1 costing testimony of Postal Service witnesses Smith (USPS-T-9 as

approaches the scheduled implementation of Phase 2, should subsequent events or changed circumstances so warrant, it will revisit the final service standards before February 1, 2014, and amend or withdraw them, as appropriate, through a new notice-and-comment rulemaking. 77 Fed. Reg. at 31192; Tr. Vol. 9 at 2735.

14

red. Reg. at 3 (192; 11. vol. 9 at 2735.

<sup>&</sup>lt;sup>6</sup> Out of respect for the possibility of a future legislative enactment that may require it or an advisory opinion that persuasively suggests it, the Postal Service has made clear that, as it

supplemented by USPS-ST-3) and Bradley (USPS-T-10 as supplemented by USPS-ST-4). Accordingly, the the \$1.2 billion figure merely serves as a management cost savings *target* for Phase 1;<sup>7</sup> it provides no basis for estimating what percentage of the \$2.1 billion of full-up cost savings calculated by witnesses Smith and Bradley will accrue as a result of the Phase 1 consolidations initiated on July 1, 2012, or what amount will be captured as a result of the Phase 2 consolidations to be initiated on February 1, 2014. Thus, the assertion by NPMHU that the Postal Service has estimated Phase 2 savings to be \$0.9 billion is -- charitably put -- mistaken. All that witness Rosenberg concedes at page 2792 of Tr. Vol. 9 is the arithmetic fact that the figure 1.2 is over half of the figure 2.1. However, there is no basis for asserting that the Postal Service has estimated that the majority of the cost savings from its service change plan will result from Phase 1.

# F. Where Applicable, The Postal Service Satisfies The Public Hearing Requirement Of USPS Handbook PO-408.

At page 24 of its Initial Brief, NPMHU criticizes the AMP studies of certain facilities by questioning the Postal Service's compliance with USPS Handbook PO-408 and its public input requirements, specifically the requirement that the Postal Service conduct hearings prior to consolidation of a processing plant.

NPMHU does not allege that the Postal Service failed to conduct hearings required by Handbook 408.8 Instead, NPMHU complains that the Postal Service

<sup>&</sup>lt;sup>7</sup> See Tr. Vol. 9 at 2716-17, 2739, 2756 and 2797.

<sup>&</sup>lt;sup>8</sup> Nor does NPMHU allege that hearings failed to meet the standards prescribed in Pub.L. 109-435, Title III, section 302(c)(3)(D). December 20, 2006, 120 Stat. 3219.

performed the hearings in a "mechanical" method. In support, NPMHU's argument cites the testimony of several witnesses who complained that:

- (1) Postal Service representatives at the meetings relied on prepared scripts and were not able to provide explanations of the basis for postal policy determinations and estimated savings calculations to the satisfaction of every question; and
- (2) the meetings were scheduled on inconvenient dates and/or at inconvenient times of the day.<sup>9</sup>

As part of the Postal Service's evaluation of its network, the Postal Service conducted more than 200 public meetings about individual processing plants. In an effort to standardize, to the greatest extent possible, the process and the quality of information provided at the hearings, the Postal Service used a standardized format and presentation for each facility. This standardization allowed the Postal Service to ensure that all necessary information was provided at all hearings, and that no communities received different or incomplete information about the plan. Unfortunately, in the postal universe, management's reward for having done so is to endure criticism from one of its labor unions.

NPMHU has not alleged that the Postal Service did not provide a detailed presentation of the plan for the network or that the Postal Service did not did

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<sup>&</sup>lt;sup>9</sup> As highlighted in Docket No. N2011-1 (USPS-SRT-2 at 4; Tr. Vol. 5 at 1799-1800), no time or date will be convenient for every member of a community to attend a hearing. Accordingly, as a part of the Handbook PO-408 process, interested persons are afforded the opportunity to submit comments in writing. Docket No. N2012-1, USPS Library Reference N2012-1/3 at 16. The Postal Service also observes that parties concerned about the service standard changes at issue in this docket were afforded opportunities to submit written comments in response to the September 21, 2011 advance notice of proposed rulemaking (76 Fed. Reg. 58433) and the December 15, 2011, rulemaking notice (76 Fed. Reg. 77942).

permit members of the public to provide comments. Instead, the NPMHU merely alleges that the Postal Service representatives were unable to answer every question asked at the hearing or explain the intricate details of how the different buckets of cost savings were calculated. Nevertheless, individuals at the hearings were presented with information about the current financial and operational status of the Postal Service and the proposed operational changes and were then permitted to comment or ask questions. Postal Service personnel at the hearings attempted to respond to comments and questions to the best of their ability. In sum, the Postal Service satisfied its hearing requirement, and the NPMHU has provided no contradictory argument or evidence.

### III. THE NETWORK RATIONALIZATION PROCESS WITHSTANDS INTERVENOR CRITICISM.

The initial briefs of various parties offer criticisms of the Postal Service's network rationalization process, in particular the Postal Service's analysis of mail processing and transportation changes achievable under the consolidated network. Many such criticisms were anticipated and addressed in the Initial Brief of the United States Postal Service. The Postal Service responds to other specific arguments below.

# A. The Postal Service Modeling Efforts Provided A Reasonable Starting Point For Further Analysis.

In their initial briefs, several intervenors offer overlapping criticisms of the Postal Service's application of the Microsoft Excel scoring tool and LogicNet model in the early stages of its network redesign process. Examples of these criticisms are summarized and discussed below.

#### 1. The modeling critics judge by the wrong standard.

A common theme among the critics is that the Postal Service did not fully or properly optimize its network. See APWU Initial Brief at 14; Public Representative Initial Brief at 46. These criticisms miss the essential point that the Postal Service did not use its Logic Net model for the purpose of determining an optimal network design. Based on volume, equipment throughputs, and facility workroom square footage, witness Rosenberg used the LogicNet model to project potential mail processing plant 3-digit ZIP Code service areas that could result from consolidating various plants into others. This exercise was performed in order to generate a network concept that could serve as a starting point for the application of the expertise of postal mail processing and transportation management experts to identify potential plant-to-plant consolidation opportunities to subject to the USPS Handbook PO-408 Area Mail Processing guidelines for feasibility analysis. USPS-T-3 at 3. Moreover, as witness Rosenberg makes clear, various constraints were applied. For instance, instead of using a greenfield approach which assumes away the current network, including its entire infrastructure, to design an optimal one, the Postal Service started its analysis based on the current network infrastructure and a selfimposed prohibition on capital expenditures to enhance the feasibility of preserving any existing network nodes. Tr. Vol. 4 at 1275, 1282. If judged by the Commission on the basis of whether witness Rosenberg's use of the LogicNet modeling tool accomplished the task for which it was employed, then the Postal Service submits that the modeling exercise should be judged a success.

To be clear, the Postal Service agrees that if it were it to develop a network modeling tool that incorporated considerably more network facility and operating data than were utilized by witness Rosenberg, it might seek to employ that hypothetical tool to engage in an optimization exercise, if that were its goal. Or, as it relates to the task at hand, the Postal Service might have relied on such a tool in a manner that permitted it to minimize its reliance on iterative rounds of management expert analysis that were undertaken to refine the consolidated network concept suggested by its LogicNet model before subjecting it to the AMP review process. Or, given unlimited time and resources, the Postal Service might have developed and relied on a much more robust network modeling tool that incorporated the granular facility-specific mail processing, equipment, transportation, and customer impact data that are examined as a part of the AMP process. Under such circumstances perhaps, the facility consolidation decisions of the Network Operations Vice President could be reduced to a simple review and approval of model outputs. However, the various statutory service obligations that the Postal Service must weight in the balance when considering substantially nationwide service changes and the customer input reviewed during the service standard rulemaking and under the USPS Handbook PO-408 Area Mail Processing guidelines all combine to make such a myopic reliance on model-generated optimality outputs problematic.

2. The tremendous value of judgment obtained through actual day-to-day management must be acknowledged.

A typical criticism at page 28 of the GCA Initial Brief points to Public Representative witness Raghavan's skepticism about the outputs produced by

the scoring tool described by Postal Service witness Rosenberg at pages 4-12 of USPS-T-3. The criticism ignores the fact that the outputs were merely used "as the baseline for initiating discussions" with postal subject matter experts that ultimately resolved whether it was feasible to contract or expand various mail processing operating windows. USPS-T-3 at 11-12. Thus, however skeptical witness Raghavan may have been of the scoring tool outputs, those outputs did not serve as the sole basis for proposed changes in operating windows. Hard as it may be for some to accept, the collective experience and knowledge of postal management provides a very solid basis for making judgments about potential changes in postal operations.

A similar criticism can be found at page 21 of the NPMHU Initial Brief, which disparages the Postal Service LogicNet model for not incorporating data such as the length of the building, the number of docking ports, total square footage of dock space, number of trucks that could be docked at one time, or number of access roads to the docking space. Such criticisms might be of consequence if the Postal Service had made consolidation determinations solely or primarily on the basis of its LogicNet model outputs, and had not relied on the valuable facility-specific knowledge and insight of headquarters and field mail processing and transportation managers, and the Area Mail Processing feasibility analysis guidelines. Similarly, NPMHU also complains at page 21 of its Initial Brief that the USPS LogicNet model mapped shipping distances from the center

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<sup>&</sup>lt;sup>10</sup> Followed by a detailed consolidation implementation process based on facility-specific plans. See Tr. Vol. 2 at 345-46.

of a 3-digit ZIP Code service area, without regard to where a population was actually concentrated within that service area. NPMHU's complaint seems oblivious to the fact that (with certain exceptions in Alaska) market dominant service standards generally apply to an entire 3-digit ZIP Code service area to which the Postal Service is expected to provide the same quality of delivery service, not just its most densely populated portion. Accordingly, the precise location of the centroid within the 3-digit ZIP Code area is of little consequence in a preliminary decision-support modeling exercise such as that which the Postal Service employed.<sup>11</sup>

## 3. There are ample reasons why Public Representative witness Raghavan's analysis is not that informative.

Referencing the testimony of Public Representative witness Raghavan (PR-T-2), the APWU Initial Brief at 15 argues that the Postal Service LogicNet model "did not include transportation costs even though the plant-to-plant transportation costs would have been of great assistance in determining the best solution." Similarly, page 21 of the NPMHU Initial Brief argues that the design of the LogicNet system inherently underestimated the costs of consolidation by not accounting for the costs of transporting mail between facilities. Putting aside the fact that the Postal Service LogicNet model was not used to determine the "best" solution or measure such costs, these arguments ignore the fact that the two main LogicNet model solution drivers are the plant-to 3-digit ZIP Code

<sup>&</sup>lt;sup>11</sup> At times, the criticism is completely off-base. At page 20 of its Initial Brief, NPMHU argues that the Postal Service's LogicNet models "inputs were 'high level' – meaning rough estimates . . . ." To the contrary, the inputs were not "rough estimates" developed by witness Rosenberg, but the best information available from postal data systems.

<sup>&</sup>lt;sup>12</sup> See also NNA Initial Brief at 1.

distance constraint and plant capacities. These constraints combined are the major determinant of where and how many plants may be needed within specific geographies. As a result, overall plant-to-plant transportation network cost would not vary significantly from one proposed solution to the next. Accordingly, it was not necessary to the development of the analytical starting point of the network concept as generated by LogicNet that precise plant-to-plant costs be resolved via the model.

At page 15 of its Initial Brief, APWU credits Public Representative witness Raghavan (PR-T-2 at 14) as observing that witness Rosenberg's model incorporated overly long processing windows. If the Commission is going to rely on the judgment of someone who has not yet observed any mail processing (Tr. Vol. 10 at 3153) in lieu of the experienced mail processing network managers and analysts regarding whether mail processing windows are too long (or short) in formulating its advisory opinion, then postal management will rightfully be concerned about how much weight to give such an opinion. At pages 47-48 of its Initial Brief, the Public Representative highlights witness Raghavan's testimony regarding validation of the scoring tool used by witness Rosenberg to develop proposed operating windows for various mail sortation steps. The Public Representative alludes to witness Raghavan's testimony that an appropriate method of validating the scoring tool would be to see if the current number of plants would be calculated if values were altered to conform to existing windows

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<sup>&</sup>lt;sup>13</sup> These outputs were that were then used as the baseline for consultations with postal mail processing and transportation experts to assess the feasibility of shortening the outgoing processing window and adjusting other operating window start times, with the Delivery Point Sequencing window set at 16 hours. USPS-T-3 at 12.

and service standards, and his conclusion (Tr. Vol. 10 at 3112) that the number of facilities produced by witness Rosenberg's use of the Microsoft Excel scoring tool far exceeds the number of mail processing facilities currently operating. See also GCA Initial Brief at 28. The Public Representative argues that witness Raghavan's inability to use witness Rosenberg's scoring tool to reproduce the status quo ante calls into question the tool's validity. As previously stated, the costing tool provided a basis for discussing how to reduce the excess capacity within the postal network. However, operating plan changes have a significant impact on assumptions, specifically volume arrival profiles which in turn impact the potential equipment throughput in a given window. Thus, the same assumptions cannot apply to pre-July 1, post-July 1, or even Phase 2. The record evidence is silent regarding whether witness Raghavan, in the course of his validation exercise, used different volume arrival profiles for the different operating scenarios.

At pages 53-54 of its Initial Brief, the Public Representative references the testimony of witness Raghavan (Tr. Vol. 10 at 3121) and argues that a future network based on 95<sup>th</sup> percentile FY 2010 volumes *could* (not would) lead to the inability to handle successive days with peaks above the 95<sup>th</sup> percentile, and that the number of such potentially problematic days will increase to an unknown degree. Having never observed postal operations (Tr. Vol. 10 at 3153) and, thus, having no feel for how peak days are routinely managed today, witness Raghavan is understandably concerned purely from a modeler's perspective about how well peak volumes can be handled in the future rationalized network.

However, witness Williams (USPS-T-1) addressed the resiliency of the future network its expected capacity of mail processing plants to deal with a variety of unpredictable, but routinely experienced challenges to daily operating plans when he testified that:

The Postal Service develops plans for contingency purposes at each facility. The Postal Service will update all plans accordingly based on the redesigned mail processing network. The Postal Service expects to employ such strategies in the future as are employed today to respond to such events as are listed in the question, including the creation of temporary facilities or the temporary staging of operations at existing nearby facilities to ensure that reasonable levels of service can be maintained under the circumstances.

Tr. Vol. 2 at 200. See also Tr. Vol. 4 at 1280. Moreover, the Commission should bear in mind that the inexorable decline in First-Class Mail volumes from the FY2010 levels on which the future network has been designed puts less and less stress on the network currently being implemented, which continuously reduces the risk that tomorrow's peak volumes will be a challenge to process.

## 4. Some criticism reflects a fundamental misunderstanding of witness Rosenberg's testimony.

The argument at pages 46-47 of the GCA Initial Brief illustrates that the best efforts of the Postal Service to communicate complex operating concepts to a broad audience do not always succeed. As is evident by the testimony of witness Williams (USPS-T-1 at 5), the proposal to expand the Delivery Point Sequencing (DPS) processing window was founded on the realization that relaxation of the overnight First-Class Mail service standard allows for expansion of the DPS window in such a way as to create an opportunity for considerable

consolidation of existing mail processing infrastructure that, when fully implemented, will generate a substantial reduction in operating costs.

At pages 46-47, GCA appears to weave several concepts into a misguided argument. As discussed by witness Rosenberg (Tr. Vol. 4 at 1312), the first is the Postal Service's approach with the scoring tool to designate as infeasible any potential mail processing plant operating window that assumes the failure of available mail to flow through the operation during the allotted window. In other words, the Postal Service does not regard as feasible a local operating plan which incorporates an expectation that 10 percent or even 1 percent of the mail arriving by the Critical Entry Time for that operation will fail to be processed for timely dispatch downstream. See Tr. Vol. 4 at 1316. 14 The second concept apparently caught in the swirl at GCA Initial Brief pages 46-47 is the phenomenon of mail arriving too late for timely processing through the DPS window. For reasons that are not clear, GCA appears to identify this mail in the full paragraph on page 47 as the driving force behind the First-Class Mail service changes that are being implemented. Along the way, GCA draws into the mix a third phenomenon, "late arriving mail" discussed by witness Rosenberg (USPS-T-3, page 4, line 7) -- mail from the inter-SCF trading partners of the plant performing DPS that arrives late during the DPS window and ultimately constrains the DPS processing window at a destinating plant. As evidenced by the full paragraph on page 47 of its Initial Brief, GCA appears to have come to the conclusion that the overnight First-Class Mail service changes being

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<sup>&</sup>lt;sup>14</sup> The Postal Service may not always succeed, but it also does not establish plans that assume any degree of failure as acceptable.

implemented are a misguided reaction by the Postal Service to the second phenomenon, <sup>15</sup> and that the simple "common sense solution" of demarcating "a hard cut-off time for receiving . . . First-Class Mail [at a DPS operation] for overnight delivery . . ." be established. GCA's premise and conclusion are both wrong.

In conclusion to the various criticisms, the Postal Service concedes that a more robust modeling tool could potentially be developed that could have a more dominant or central influence in the network redesign decision-making process. However, it would be unfair to judge the manner in which the Postal Service used the Excel scoring tool and LogicNet model for purposes of the present initiative on the basis of how hypothetical ideally comprehensive models might operate, given the limited decision support role that the Excel scoring tool LogicNet modeling played in the overall network redesign process, and the fact that other downstream analytical processes were employed to address conceptual issues not resolved by such modeling tools. Whether the service changes at issue in this docket comport with the policies of title 39 ultimately does not hinge on the extent to which modeling tools influenced the design of the mail processing network concept made possible by pursuit of those service changes. Whether the "ideal" network modeling tool produces an inherently superior network concept than the combination of analytical processes and management expertise employed by the Postal Service is unknown. Given the objectives it is pursuing, there is no basis for concluding that the rationalized network design being

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<sup>&</sup>lt;sup>15</sup> Which GCA may be confusing with the third.

implemented by the Postal Service would be materially different had it been more influenced by modeling.

- B. Intervenor Criticisms Do Not Diminish The Reliability Of Postal Service Mail Processing Operations Testimony.
  - 1. Witness Neri presents reasonable productivity improvement estimates.

The reasonableness of Postal Service witness Neri's future network productivity improvement estimates has been demonstrated, notwithstanding intense scrutiny by intervenors in this proceeding. USPS-T-4 at 27-29; USPS-ST-5 at 3-4; Tr. Vol. 5 at 1970-71, 1987-90, 2043-45; Tr. Vol. 8 at 2667. The Postal Service has identified the assumptions embedded in witness Neri's productivity estimates, and the basis for these estimates. *Id.* In addition, Postal Service witnesses have addressed the productivity estimates in the context of the baseline and proposed networks. *See* Tr. Vol. 5 at 2052.

The Public Representative, APWU, and NPMHU challenge the assumptions incorporated into witness Neri's productivity estimates, and the basis for these productivity estimates. Public Representative Initial Brief at 25, 34-36, 41-45; APWU Initial Brief at 12-14, 16-20; NPMHU Initial Brief at 6-10. One of the central arguments made by intervening parties concerns witness Neri's alleged failure to incorporate labor flexibility into his productivity estimates. See APWU Initial Brief at 13; NPMHU Initial Brief at 7-8. However, as explained by witness Neri, the labor flexibility described by APWU and other parties exists in the baseline network, and thus is not a new element of the proposed network. Tr. Vol. 8 at 2667-69. APWU and other parties overestimate the impact of the

flexibility derived from the Postal Service's collective bargaining agreements on its ability to match workhours to a fluctuating mail profile. See Tr. Vol. 8 at 2681-82 (confirming "the lack of interest of [the Postal Service's] current workforce in the less than 40-hour opportunities" and explaining the difficulties in staffing mail processing operations with flexible employees); USPS-SRT-1 at 7-8 (recognizing that "there currently is little demand by full-time employees to convert to a less-than-40 hour work week shift or a flexible schedule" and that currently Non-Traditional Full Time Duty Assignment (NTFT) positions represent only 3 percent of the non-management, mail processing workforce). As revealed during cross-examination of witness Neri, a minimal number of employees have an interest in the flexible Non-Traditional Full Time Duty Assignment (NTFT) positions. *Id*.

In addition to the labor flexibility issue, NPMHU asserts that witness Neri's productivity improvement estimates do not account for the capacity of mail processing plants in the network currently being implemented to process increased workload for which each remaining plant will be responsible. NPMHU Initial Brief at 26-28, 34. The Postal Service has considered this issue, and the record indicates that plants in the proposed network will have the capacity to process mail at the productivity levels estimated by witness Neri. See USPS-SRT-1 at 3-4 (explaining how Run Plan Generator (RPG) confirmed that proposed network could process 95<sup>th</sup> percentile peak day volume). See also Tr. Vol. 2 at 200; Tr. Vol. 4 at 1280. Moreover, as First-Class Mail volumes continue to decline from the FY2010 levels on which the future network has been designed, there will be less stress on the network from lower level peak volumes.

Finally, intervening parties contend that witness Neri relied too heavily on his professional judgment in developing the productivity estimates, and that this reliance makes the estimates unsound. NPMHU Initial Brief at 7-10. But in attacking witness Neri's productivity estimates and presenting alternative estimates, parties have applied their own judgment, and as explained below in section IV.D, these estimates are flawed. To account for unanticipated changes and other uncertainties, witness Neri adjusted his productivity improvement estimates to make them more conservative. USPS-ST-5 at 3-4; Tr. Vol. 5 at 2043-45. Initially, based on his analysis of end-of-run volumes and staffing levels, witness Neri estimated an overall productivity improvement of 28 percent. Id. But to reflect the possibility of unanticipated impacts or influences, including uncertainty regarding the specific facility consolidation decisions pending at that time, he adjusted his productivity improvement estimate downward to a value of 15 percent. Id. The cost analysis conducted by witnesses Bradley and Smith reflect reliance on this 15 percent productivity improvement estimate. Id. A comparison with the excess capacity calculations presented by the Public Representative during oral cross-examination of witness Neri demonstrates the conservative nature of witness Neri's approach. Compare Tr. Vol. 5 at 2079 with USPS-T-4 at 29-30 (showing Public Representative's excess capacity estimates that support productivity estimates consistent with witness Neri's unadjusted productivity estimates).

## 2. AMP study results demonstrate the feasibility of network consolidation.

Witness Neri testimony demonstrates the utility of the AMP feasibility studies presented in this case, and the AMP study process overall. USPS Initial Brief at 45-48; USPS-T-4 at 14-15. The purpose of each AMP study is to assess the business case for consolidation of mail processing operations among the facilities included within that AMP study. Tr. Vol. 7 at 2448-2461; Tr. Vol. 7 at 2363. The AMP study process is not intended to measure the final cost savings attributable to or expected from a particular facility-specific consolidation of mail processing operations, whether it is a stand-alone initiative or part of a systemwide rationalization. Id. And in this case, the AMP studies undertaken as part of the initiative under review in this docket examined only approximately 35 percent of total workload in the mail processing network. Tr. Vol. 7 at 2450. Thus, it is not surprising that the aggregate savings reflected in these studies do not match the total savings estimated by Postal Service witnesses Smith and Bradley to result from the operational changes now being implemented. Tr. Vol. 7 at 2448-2461, 2363. The AMP study process does not measure -- and is not intended to measure -- certain categories of savings estimated to arise from the changes proposed in this docket, including savings attributable to efficiencies in mail processing workhours staying at the losing site and efficiencies in non-impacted operations at the gaining site. *Id.* 

The relationship between the AMP study results and the overall savings estimated to arise from the ongoing network consolidation has been a source of confusion. See APWU Initial Brief at 20-27 (challenging the reliability of Postal

Service's overall savings estimate based on inconsistency between cumulative AMP study savings and overall savings estimates of Postal Service witnesses Smith and Bradley); NPMHU Initial Brief at 6-10 (same). But this confusion has been created by these intervenors, not the Postal Service. See Tr. Vol. 7 at 2448-2461 (explaining the purpose of an AMP study and the relationship between AMP study results and the Postal Service's overall savings estimate); see also Tr. Vol. 7 at 2363. The Postal Service has made clear that the AMP study process is not intended to measure the final cost savings attributable to a particular consolidation of mail processing operations or the aggregate savings attributable to the changes proposed in this docket. Id. The overall savings and efficiencies attributable to the changes proposed in this docket are not captured by the AMP studies. Id.

3. The rationalization plan presented in this docket reflects expert consideration of logistical issues and utility and maintenance costs.

As reflected in the testimony of Postal Service witnesses Neri and Bratta, their oral and written cross-examination, and the Postal Service's Initial Brief, the Postal Service has filled the record with explanations of how it will manage foreseeable issues likely to arise in the proposed mail processing network.

Although the proposed mail processing network will differ from the baseline network, many of the challenges will remain the same. The Postal Service will have the option of approaching these challenges as it does today, although elements of a particular approach might change due to differences in the mail processing network.

NPMHU has expressed anxiety about a number of issues likely to arise in the new network, including greater use of larger mail processing facilities, the risk of delays in mail transportation and technical failures or natural disasters, increased run-time of mail processing equipment, and use of hubs. NPMHU Initial Brief at 26-31. The record indicates that the Postal Service considered these issues, and has the ability to manage them in the new mail processing network.

First, as described above, the Postal Service has developed productivity improvement estimates based on the new mail processing network. The Postal Service developed its proposed mail processing network with a focus on the ability of the network to process the expected mail volume, and it conducted modeling that confirmed the proposed mail processing network's capability to process expected mail volumes consistent with the proposed service standards. See USPS-SRT-1 at 3-4 (explaining how Run Plan Generator (RPG) is employed on a plant-by-plant basis to develop operating plans to ensure each plant has an operating plan in place to process 95<sup>th</sup> percentile peak day volume).

Second, NPMHU raises the issue of risks of delays in mail transportation and technical failures or natural disasters. NPMHU Initial Brief at 26, 28-30. These risks exist today and have existed throughout the history of the Postal Service. The Postal Service has vast experience managing these risks, and will apply the risk management strategies it has developed to the proposed mail processing network. Although some elements of these strategies might be altered to change to reflect changes in the mail processing network -- for

example, replacement of "back-up" mail processing plant options that have been removed from the network with plants remaining in the network – it will not be necessary to change the foundation of the risk management strategies. See Tr. Vol. 8 at 2565 (identifying contingency plans to deal with interruptions in service caused by weather conditions or disruptions to transportation routes). See also Tr. Vol. 2 at 200; Tr. Vol. 4 at 1280.

Third, NPMHU questions the Postal Service's ability to manage the increased run-time of mail processing equipment and the possibility of an increased risk of technical failure. NPMHU Initial Brief at 26, 29-30. Witness Bratta addresses this issue in his direct testimony, and in response to written and oral cross-examination. USPS-T-5 at 4; Tr. Vol. 4 at 928, 937-940, 968, 994-995; USPS-LR-N2012-1/28, 29, 32, and 59. There, he explains that the transition to condition-based maintenance of mail processing equipment, which is scheduled according to actual equipment utilization, improves the Postal Service's ability to manage any increase in maintenance resulting from increased run-time of mail processing equipment. See id. Because witness Bratta allocates the highest staffing levels for the proposed equipment set, the estimate of maintenance savings is conservative. The maintenance schedule incorporates the need for maintenance of mail processing equipment, and, as it does today, the Postal Service will have the ability to plan for maintenance to avoid any disruption in mail processing.

Fourth, multiple intervening parties express a concern about the Postal Service's use of hubs. NPMHU Initial Brief at 26, 30; APWU Initial Brief at 28-29;

NNA Initial Brief at 3, 16-17. The Postal Service has made clear that a hub will be developed only where it creates an opportunity for savings. Tr. Vol. 2 at 279-80; Tr. Vol. 5 at 2030-32, 2121; Tr. Vol. 9 at 2696-2703. The Postal Service appreciates how, at first blush, the existence of hubs in the future network, if mistakenly viewed as a new phenomenon, raises the specter of significant unanticipated costs being generated by network rationalization. But, the role of hubs and their de minimus impact in the new network was made clear by witness Williams in response to a question from Commissioner Taub. See Tr. Vol. 9 at 2696-2703.

Finally, intervening parties contend that the Postal Service has not considered the effect of the new network on utility and maintenance costs. PR Initial Brief at 26; NPMHU Initial Brief at 14, 26, 29-30. Postal Service witness Bratta's direct testimony explains in great detail the impact of the proposed changes on utilities and maintenance functions. USPS-T-5 at 13-17, 19-20; Tr. Vol. 4 at 947-951, 958, 978-981, 983-984. Additionally, library references associated with his testimony contain estimates of the maintenance savings likely to result from the changes proposed in this docket. *See* USPS-LR-N2012-1/80; USPS-LR-N2012-1/85.

- C. Record Evidence Affirms That Mail Processing Network
  Rationalization Will Lead To An Overall Reduction In
  Transportation Activity Resulting In Significant Cost Savings.
  - 1. Witness Martin's analysis of the plant-to-Post Office network provides a solid basis for witness Bradley's cost-savings calculations.

The evidentiary record supports the conclusion that reductions in plant-to-Post Office operating miles attributable to network rationalization will lead to significant cost savings. USPS Initial Brief at 57-58, 73-74. Although NPMHU finds it "counter-intuitive" that the Postal Service anticipates a reduction in plantto-Post Office operating miles, witness Martin's testimony clearly explains, on a conceptual level, how such reductions will be achieved. Compare NPMHU Initial Brief at 11-12 with USPS Initial Brief at 55-57. NPMHU's observation that the consolidations that occurred between 2009 and 2011 led to an increase in operating miles is inapposite; 16 those consolidations were implemented in the context of the service standards that existed during that time period. As the Postal Service explains, service standards are a constraint on its ability to streamline the transportation network in the manner proposed by witness Martin. USPS Initial Brief at 50. Therefore, far from undermining witness Martin's testimony, the increase in operating miles attributable to the 2009 through 2011 consolidations confirms Ms. Martin's assessment that the proposed servicestandard changes are key to streamlining the transportation network. See id.

Contrary to claims by the Public Representative and NPMHU, witness Martin's estimated reduction in plant-to-Post Office operating miles is a solid

35

N2012-1 USPS Reply Brief

<sup>&</sup>lt;sup>16</sup> NPMHU cites to the attachment to witness Martin's response to APWU/USPS-T6-1. Tr. Vol. 4 at 1012.

foundation for witness Bradley's cost-savings calculations. The Public Representative's claim that witness Martin excluded "trips for originating mail that go from the post office to the plant" (Public Representative Initial Brief at 29) is incorrect. Witness Martin's conceptual description of the plant-to-Post Office network includes trips that travel from plants to Post Offices and from Post Offices to plants. See USPS-T-6 at 10-13. Additionally, witness Martin's plantto-Post Office analysis relies on AMP studies that encompass both types of trips including trips that were outside her "administrative responsibility." 17 Tr. Vol. 4 at 1207-08. See USPS-ST-2 at 4; USPS-LR-N2012-1/77. Moreover, witness Bradley clarified that both he and witness Martin used the phrase "plant to post office" to refer to trips "from plants to post office and post office to plant." Tr. Vol. 8 at 2623. Because no testimony has been submitted in this docket concerning the "potential changes and [related] cost impacts" of "post office to...plant" trips that are separate from those related to "plant-to-Post Office" trips, it is not surprising that witness Martin was unable to identify any witness or testimony who could provide such disaggregated data. See Tr. Vol. 4 at 1208.

Criticisms from the NPMHU and the Public Representative concerning the exclusion of routes that will not be impacted by, or are not implicated by, an approved AMP, were addressed in the Postal Service's Initial Brief. *Compare*NPMHU Initial Brief at 12-13 and Public Representative Initial Brief at 30 *with* 

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<sup>&</sup>lt;sup>17</sup> Indeed, in response to a question from Public Representative counsel, witness Martin stated that Post Office trips to the plant were included in AMP studies. Tr. Vol. 4 at 1209. As her direct and supplemental testimonies show, the route changes described in these studies formed the basis of her analysis. However, because witness Martin did not rely on the transportation cost-savings estimates contained in these studies, witness Martin correctly affirmed that "costs or savings effects of consolidation" in the AMP studies were beyond the scope of her testimony. Tr. Vol. 4 at 1209.

USPS Initial Brief at 57-58. Moreover, these criticisms overlook the fact that, according to the AMP studies analyzed by witness Martin, the Postal Service anticipates a reduction of approximately 37 million operating miles as a result of approved consolidations. USPS-LR-N2012-1/77 ("USPS LR 77") (Tr. Vol. 8 at 2568). No intervenor has offered any evidence to rebut witness Martin's conclusion that reductions in plant-to-Post Office operating miles can be achieved through network rationalization. See USPS Initial Brief at 58.

2. Witnesses Martin and Bradley use sound methodologies to determine cost savings attributable to reductions in plant-to-plant trips.

The evidentiary record supports the conclusion that reductions in plant-to-plant trips attributable to network rationalization will lead to significant cost savings. As explained in the Postal Service's Initial Brief, witness Martin's plant-to-plant analysis withstands intervenor criticism and provides a solid basis for witness Bradley's cost-savings calculations. USPS Initial Brief at 52-54.<sup>19</sup> In

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<sup>&</sup>lt;sup>18</sup> Indeed, if the plant-to-Post Office cost savings were calculated simply on the basis of the reduction in operating miles set forth in the AMPs reviewed by witness Martin (37,256,340) and the average cost per mile for FY 2010 identified by witness Bradley (\$2.05 per mile), the cost savings estimate would be \$76,375,497. See LR 77 and USPS-T-10 at 35. When multiplied by the variability of 70.2 percent, the resulting savings estimate is \$53.6 million. By comparison, witness Bradley's estimate of \$22,989,962 should be considered a conservative estimate of the actual savings.

<sup>&</sup>lt;sup>19</sup> NPMHU's challenge to witness Martin's claim that the Postal Service will be able to increase the capacity utilization of trucks is unpersuasive. NPMHU Initial Brief at 13 n. 10. First, NPMHU ignores the plant-to-plant analysis update that is supplied in USPS LR 77 which encompasses <u>all</u> Inter-Area, Inter-PDC, and Inter-Cluster routes in the network. See USPS-ST-2 at 3. USPS Library Reference N2012-1/11 only encompasses a subset of those routes. Second, neither the Postal Service's response to PR/USPS-T6-4 nor any other record evidence provides support for NPMHU's assertion that the 70 percent utilization target is reflective of a need to include excess capacity to account for fluctuations in volume. Third, NPMHU overlooks the fact that over half of the remaining plant-to-plant trips have utilization percentages that are less than 50 percent. Cf. Tr. Vol. 4 at 1119 ("The utilization rate of less than 50 percent on a particular trip/truck is flagged to determine if a trip, a series of trips, or an entire route, can be eliminated."). Fourth, NPMHU appears to overlook the possibility that volume from an eliminated route could theoretically be spread over several remaining routes. In other words, three routes that are each 80 percent utilized may collectively be able to absorb up to 60 percent more volume. Finally, no other

light of the nationwide focus of witness Martin's plant-to-plant analysis and the absence of conflicting or contrary record evidence, 12.83 percent is a reasonable estimate for the nationwide reduction in plant-to-plant transportation anticipated from network rationalization.<sup>20</sup>

NPMHU's observation that there is wide variation in the cost information provided for plant-to-plant trips has been acknowledged by the Postal Service.

NPMHU Initial Brief at 10-11; USPS LR 77. Witness Bradley explains that anomalies in the annual costs set forth in USPS LR 77 caution against their use in determining the estimated cost-savings. Tr. Vol. 8 at 2634-35. Accordingly, witness Bradley prefers to use the actual recorded costs for Fiscal Year 2010.

Id. Additionally, witnesses Bradley and Martin observe that field managers tend to overstate their transportation needs in AMP studies. Tr. Vol. 5 at 2636; USPS-ST-2 at 4. This observation supports the view that witness Bradley's costing approach should be preferred over the approach apparently favored by NPMHU, i.e., summing the annual costs set forth in USPS LR 77 for the trips targeted for elimination. See also Tr. Vol. 7 at 2448-52 ("[A]ggregation of facility consolidation study figures does not produce a reliable estimate of network rationalization savings.")

The Public Representative's criticism of witness Bradley's cost savings calculations with respect to plant-to-plant transportation (PR Initial Brief at 30-

witness testimony has undertaken to rebut witness Martin's expert judgment that excess capacity throughout the transportation network would enable remaining routes to absorb volumes from eliminated routes. See Tr. Vol. 4 at 1107.

<sup>&</sup>lt;sup>20</sup> Additionally, NPMHU's concern that network rationalization will increase the risk that traffic or poor weather will disrupt and slow mail delivery have been thoroughly addressed by witness Martin's explanation of how such operating conditions are accounted for in the ordinary course of business. *Compare* NPMHU Initial Brief at 28 *with* Tr. Vol. 4 at 1066-68.

31)<sup>21</sup> is flawed. The Public Representative observes that while witness Martin calculates a 12.83 percentage reduction in the number of plant-to-plant highway "trips," witness Bradley interprets this number as a percentage reduction in plant-to-plant cubic foot miles. The Public Representative admits that "such application might be reasonable if 12.83 percent reduction in the number of trips leads to a corresponding decrease in cubic foot miles," but apparently thinks that it does not. Public Representative Initial Brief at 31. While the Public Representative provides no evidence of a lack of correspondence between the two proportions, it attempts to support its assertion with a mathematical exercise. *Id.* at 32-33. Unfortunately, this calculation suffers from two fundamental errors.

First, it apparently confuses two different highway transportation mileage concepts. The first concept is route miles, which is simply the highway distances covered by a truck on a trip. The second concept is annual miles which is the product of a trip's frequency (the number of times per year that it runs) times its route miles. The apparent conflation of these two concepts causes the Public Representative to misstate the formula for cubic foot miles. The cubic foot miles on a highway trip is the product of the truck's cubic capacity times the trip's route miles times the route's frequency. This can be expressed mathematically as:

CFM = Cube \* Route Miles \* Frequency

Because the last two terms in the expression are the two parts of annual miles, the expression for cubic foot-miles can be written more simply as:<sup>22</sup>

<sup>&</sup>lt;sup>21</sup> See also APWU at 16 n. 26.

<sup>&</sup>lt;sup>22</sup> This definition has been employed by the Commission in calculating attributable highway transportation costs for many years. It was explained, for example, by witness Bradley in PRC Docket No. R97-1:

CFM = Cube \* Miles

The Public Representative also errs in attempting to calculate the percentage change in cubic foot miles. The correct mathematical method is application of the "product rule" of calculus. That starts with identifying the sources of change in cubic foot miles:

 $\Delta$ CFM = Cube \*  $\Delta$  Miles + Miles  $\Delta$  Cube

This absolute change is converted to a percentage change in cubic foot miles by dividing both sides of the equation by CFM:

 $\Delta$ CFM / CFM = (Cube \*  $\Delta$  Miles) / CFM + (Miles  $\Delta$  Cube) / CFM Substituting the formula for CFM and cancelling like terms yields:

 $\Delta$ CFM / CFM =  $\Delta$  Miles / Miles +  $\Delta$  Cube/Cube

or

 $\%\Delta CFM = \% \Delta Miles + \%\Delta Cube$ .

Most purchased highway transportation contracts contain several trips, which may occur on different routes and at different frequencies. In Docket No. R87-1, each of the hard-copy contracts was examined to decide which vehicle on the contract performed each trip. Using this information, cubic foot-miles were then calculated in two steps. The first step multiplied, at a route trip level, the cubic capacity of each truck times the annual miles that it traveled. This produced annual cubic foot-miles for that route trip. The second step summed the cubic foot-miles over all route trips on the contract.

This type of detailed information does not currently exist in HCSS. Although the truck capacity and the total annual miles exist in HCSS, there is no way to link an individual truck size with an individual trip. The Postal Service does not require this detailed routing for managing the contracts as that management does not require calculation of total annual cubic foot-miles for the contract. Consequently, I calculate cubic foot-miles by multiplying the average truck size on each cost segment by the annual miles on that cost segment.

Direct Testimony of Michael D. Bradley on Behalf of the United States Postal Service (USPS-T-13) at 18 (emphasis added).

In other words, the reduction in cubic foot miles is the sum of the percentage reduction in annual miles plus the percentage reduction in cube.<sup>23</sup>

Both the Postal Service and the Public Representative agree that there will be no change in truck size as a result of network rationalization, so the percentage reduction in cubic foot miles will be determined by the percentage reduction in annual miles.

As USPS LR 77 shows, a highway transportation trip is defined by its route miles and frequency and thus by its annual miles. Thus, the elimination of a trip is the same as the elimination of annual miles. The key issue therefore is the extent to which the percentage reduction in trips matches the percentage reduction in annual miles. According to USPS LR 77, the percentage reduction in annual miles of 13.2 percent is roughly equivalent to the percentage reduction in trips of 12.8 percent. Accordingly, witness Bradley appropriately used witness Martin's estimate to determine the costs savings expected from network rationalization.

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Applying the product rule to this formula yields:

<sup>&</sup>lt;sup>23</sup> The Public Representative defines cubic foot miles as:

CFM = Cube \* Trips \* Miles.

 $<sup>\%\</sup>Delta CFM = \%\Delta Cube + \%\Delta Trips + \% \Delta Miles.$ 

This shows that, according to the Public Representative's approach, the percentage reduction in cubic foot miles <u>exceeds</u> the percentage reduction in cube and the percentage reduction in miles. Thus, the Public Representative's analysis suggests that, if anything, witness Bradley <u>understated</u> the reduction in cubic foot miles (and cost) by using witness Martin's percentage reduction in trips.

3. Estimated cost savings attributable to potential PVS to HCR conversions were appropriately included in the overall cost savings estimates.

NPMHU mistakenly relies on witness Martin's oral testimony in support of its argument that the estimated savings from conversions from Postal Vehicle Service (PVS) to Highway Contract Route (HCR) should not be attributed to network rationalization. NPMHU Initial Brief at 13. Although witness Martin acknowledged that mode conversions could occur outside the context of the network rationalization initiative, witness Bradley explains that one can infer from the Postal Service's continued use of PVS transportation, despite its higher cost, that there are reasons other than cost for its continued use and that those reasons make it difficult for the Postal Service to simply substitute HCR transportation for PVS transportation in the current environment. Tr. Vol. 5 at 1799. Moreover, a fair reading of the testimonies of witnesses Bradley and Martin indicate that Mail Processing Network Rationalization provides the Postal Service with the unique opportunity to evaluate existing transportation modes with an eye towards reducing costs. Tr. Vol. 4 at 1165-66; Tr. Vol. 5 at 1798-99 ("The rationale for including these cost savings as a component of the cost savings resulting from the network and service change is that they would be initiated by the structural change in the mail processing network caused by the service standard change."); USPS Initial Brief at 59. Despite NPMHU's claims to the contrary, the Postal Service appropriately included cost savings from conversions from PVS to HCR routes in its cost-savings calculations.

# IV. THE INTERVENORS HAVE FAILED TO PRESENT A CREDIBLE CHALLENGE TO THE POSTAL SERVICE'S COST SAVINGS ESTIMATES.

### A. The Intervenors Have Not Shown Any Significant Flaws In The Baseline Used To Estimate Cost Savings.

Apart from disputing Postal Service operations witnesses' productivity estimates, which has been addressed above in section III.B, the intervenors' primary criticism of the Postal Service's cost savings estimate is that the baseline used for performing the estimate is flawed. NPMHU, for example, asserts that the baseline is too large because the employee labor force has become smaller since 2010.<sup>24</sup> Similarly, APWU argues that the baseline is inflated because mail volumes have dropped since 2010 and because certain facilities included in the baseline were already slated for consolidation before the filing of the Request in this docket.<sup>25</sup>

Importantly, the only record evidence that the parties cite in this regard is the testimony of APWU witness Kobe (APWU-RT-1; Tr. Vol.11 at 3697 *et seq.*).<sup>26</sup> The Postal Service has already addressed witness Kobe's points in its initial brief.<sup>27</sup> As explained there, witness Kobe's assertions are, when they are not outright wrong, significantly exaggerated. That explanation also serves to rebut GCA's assertion that the Postal Service's cost savings calculations include savings not related to the service standard change, as the only record evidence

<sup>&</sup>lt;sup>24</sup> NPMHU Initial Brief at 9-10.

<sup>&</sup>lt;sup>25</sup> APWU Initial Brief at 12-13.

<sup>&</sup>lt;sup>26</sup> Curiously, APWU appears, at times, in its brief to reproduce witness Kobe's arguments without explicitly citing to her testimony. This practice perhaps stems from the effectiveness of witness Smith's surrebuttal testimony. As noted elsewhere in this reply brief, evidence that is not in the record cannot properly be relied upon by the parties or the Commission.

<sup>&</sup>lt;sup>27</sup> Postal Service Initial Brief at 111-114.

GCA cites is witness Kobe's testimony.<sup>28</sup> The Postal Service has acknowledged all along that its baseline is not utterly perfect.<sup>29</sup> No baseline would be, and parties could always quibble with aspects of any baseline. Rather, the baseline is a reasonable one from which to make a sound, approximate estimate of the cost savings that will accrue from Network Rationalization.<sup>30</sup>

### B. The Intervenors Have Not Shown That Transition Costs Will Negate The Benefits Of Network Rationalization.

A number of the intervenors fault the Postal Service for not providing estimates of transition or implementation costs. For example, NALC states that the Postal Service has provided "little account of transition or implementation costs," and it cautions that "transition costs would not likely be incurred entirely in the first year." APWU and NPMHU offer similar criticisms. The Postal Service has not calculated transition or implementation costs, and, obviously, because implementation began in July, 2012 and will continue beyond February, 2014, such costs will spread over several fiscal years. As the Postal Service states regarding this issue in its initial brief, none of the intervenors have brought evidence showing that transition or implementation costs will be so colossal as to negate the clear long-term benefits that will accrue from Network Rationalization. Every major initiative involves transition and implementation costs, and so long as such costs are not large enough to negate the permanent,

<sup>&</sup>lt;sup>28</sup> GCA Initial Brief at 24-25.

<sup>&</sup>lt;sup>29</sup> USPS-SRT-2 at 7.

<sup>&</sup>lt;sup>30</sup> *Id.* 

<sup>&</sup>lt;sup>31</sup> NALC Initial Brief at 24-25.

<sup>&</sup>lt;sup>32</sup> APWU Initial Brief at 14; NPMHU Initial Brief at 16-17.

<sup>&</sup>lt;sup>33</sup> Postal Service Initial Brief at 114.

long-term savings accruing from the initiative, the proper focus for an advisory opinion inquiry is the permanent, long-term savings.

# C. APWU And NPMHU's "Placeholder" Cost Savings Estimate Arguments Seriously Misrepresent The Evidentiary Record.

APWU argues that "[s]everal . . . [postal] witnesses indicated that the \$2.6 billion estimate was a placeholder until the savings for the Area Mail Processing (AMP) process was complete for the actual set of facilities to be closed."<sup>34</sup> NPMHU makes the same insinuation in its initial brief.<sup>35</sup> The evidentiary record very clearly demonstrates that there is no basis for these characterizations. The cost estimates of witnesses Smith (USPS-T-9, as supplemented by USPS-ST-3) and Bradley (USPS-T-10, as supplemented by USPS-ST-4) stand as the Postal Service's best estimate of the operational cost savings the Postal Service is likely to generate by implementing the operational changes made possible by the service standard changes under review in this docket – \$2.1 billion. The Postal Service testimonies cited at page 19 of the APWU Initial Brief and page 5 of the NPMHU Initial Brief provide no basis for concluding that the Postal Service has ever regarded the Smith/Bradley network-wide cost savings estimates submitted on December 5, 2011 as placeholders to be superseded by the results of the numerous more limited facility-specific AMP cost studies. To the contrary, the aforementioned supplemental testimonies of witnesses Smith and Bradley reflect updates to their original analysis based on the scope of the network resulting from the February 23, 2012, AMP decisions.

<sup>&</sup>lt;sup>34</sup> APWU Initial Brief at 19.

<sup>&</sup>lt;sup>35</sup> NPMHU Initial Brief at 5.

APWU and NPMHU's insinuations that the original Smith/Bradley analysis was a mere placeholder for the cumulative results of the February 23rd AMP studies is refuted by the very detailed explanation by witness Williams at Tr. Vol. 7 at 2448-61. There, he explains the scope and purpose of time-tested AMP analysis, how the Post-Implementation Review (PIR) process proves that AMP studies generate conservative cost savings estimates, and how AMP analysis differs from the much more comprehensive cost analyses performed by witnesses Smith (USPS-T-9)<sup>36</sup> and Bradley (USPS-T-10),<sup>37</sup> with the support of witnesses Neri (USPS-T-4),<sup>38</sup> Bratta (USPS-T-5),<sup>39</sup> and Martin (USPS-T-6).<sup>40</sup>

### D. The Public Representative's New, Last-Minute Cost Savings Analysis Is, In Addition To Being Inadmissible, Wrong.

The intervenors discussed above have confined themselves to criticisms of the Postal Service's cost savings analysis. One probable reason for this is that none of them conducted their own cost savings analysis, perhaps because such an analysis would be subject to discovery, cross-examination, and rebuttal by the Postal Service. The Public Representative, on the other hand, tries to have its cake and eat it too -- it refrained from presenting a cost savings analysis during the evidentiary phase, but now that the record is closed and the Public Representative is safely insulated from discovery, cross-examination, and

<sup>&</sup>lt;sup>36</sup> As supplemented by USPS-ST-3.

<sup>&</sup>lt;sup>37</sup> As supplemented by USPS-ST-4.

<sup>&</sup>lt;sup>38</sup> As supplemented by USPS-ST-5.

<sup>&</sup>lt;sup>39</sup> As supplemented by USPS-ST-1.

<sup>&</sup>lt;sup>40</sup> As supplemented by USPS-ST-2. As it reviews pages 2448-61 of Tr. Vol. 7, the Commission will likely wonder, as the Postal Service does, why APWU would assert at page 26 of its Initial Brief that witness Williams' explanation "seems to depend mostly on the results of past Post Implementation Reviews" when PIRs merit discussion in only one paragraph of his 14-page explanation.

rebuttal, it presents a last-minute cost savings analysis in its initial brief.

Concurrently with this reply brief today, the Postal Service has filed a motion explaining why this analysis is inadmissible, cannot be relied on by the Commission, and should be stricken from the Public Representative's Initial Brief.<sup>41</sup>

If the Postal Service had had the opportunity to conduct discovery, cross-examination, and rebuttal, it could fully expose the myriad flaws in Public Representative's analysis. But even based on a cursory review, it is clear that the analysis includes both computational and conceptual errors, and that the presented calculations do not match the methods described in the text accompanying them, indicating that the analysis is internally inconsistent and does not do what the brief claims that it does.

The Public Representative's Initial Brief indicates that it is adopting but modifying Postal Service witness Neri's USPS-T-4 productivity estimates, 42 adopting but modifying Postal Regulatory Commission witness Weed's (PRCWIT-T-1) approach to workload transfer, 43 and adopting and employing Postal Service witness Bradley's cost savings' computational structure to calculate the impact of combining the modified analyses of witness Neri and

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<sup>&</sup>lt;sup>41</sup> Among other things, the computer program underlying the analysis is not provided, nor is the output or "listing" of that computer program (the Appendix to the PR's Initial Brief presents the "log" of the SAS program that was run but this is not executable and does not contain the output of the results, which is contained in the "listing" of the SAS program). In addition, the spreadsheets used for the calculations apparently made subsequent to the computer program are not provided. Thus it is impossible to replicate the PR's analysis, let alone understand how the numbers are calculated.

<sup>&</sup>lt;sup>42</sup> Public Representative Initial Brief at 36.

<sup>&</sup>lt;sup>43</sup> *Id.* at 37.

witness Weed. 44 Whatever the merits of such an approach, it is clear that the analysis provided in the brief does not accomplish it. This occurs, in part, because the analysis contains several errors.

First, the Public Representative's modification of witness Neri's productivity analysis contains unsupported assumptions and at least one computational error. The Public Representative argues that the actual excess capacity in mail processing is 20.6 percent instead of the 28.06 percent found by witness Neri. Because 20.6 is 73.4 percent of 28.06, the Public Representative reduced witness Neri's estimated overall productivity gain from 15 percent to 11 percent by multiplying it by 73.4 percent. But such a proportional reduction in productivity gain is based upon an unfounded and unsupported assumption that the change in productivity resulting from the revised service standard is directly proportional to amount of excess capacity. This is not the case. As witness Neri made clear, productivity gains occur for a variety of operational reasons, not just excess capacity:

> Revision of service standards and the opportunity to streamline and consolidate facilities throughout the network is expected to lead to productivity gains. The main sources for productivity improvements include smoothing the processing profile, using less mail processing equipment, sorting to fewer destinations, and eliminating redundant processes.

USPS-T-4 at 27. This means that the Public Representative's assumption of an 11 percent productivity gain is purely speculative and has no operational or empirical basis.

<sup>&</sup>lt;sup>44</sup> Id.

Even worse, the Public Representative's other modification of witness Neri's productivity analysis is both conceptually and computationally erroneous. The Public Representative's Initial Brief indicates that it reduces witness Neri's productivity gains by 25 percent to account for the "step function" nature of operations. But it provides absolutely no basis for the use of 25 percent for such an adjustment. Moreover, when the Public Representative attempts to apply this adjustment, it miscalculates it. The Public Representative's brief states that it will reduce witness Neri's estimate of productivity for non-volume operations by a factor of 0.58 because 0.75 \* 11% = 0.58. However, 0.75 \* 11% equals .0825, not 0.58. This basic error throws into question the Public Representative's entire set of calculated productivities and cost savings.

The Public Representative then goes on to modify PRC witness Weed's analysis of workload transfer. Witness Bradley follows established Commission methodology and transfers all of the volume variable cost from the inactive facilities to the active facilities when the workload is transferred between the two facilities. USPS-T-10 at 5. Witness Weed takes an alternative approach. Rather than transferring all of the closing facilities' volume variable cost, witness Weed proposes transferring the facilities' "volume" or workload to the active facilities. Such an approach raises the question of how much additional cost or how many additional hours would be needed at the active facility to handle the additional workload. In the case employed by the Public Representative, witness Weed assumes that the additional volume is processed at the active facilities' existing

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<sup>&</sup>lt;sup>45</sup> PR Initial Brief at 36.

<sup>&</sup>lt;sup>46</sup> PRC-T-1 at 11; Tr. Vol. 11 at 4181.

productivities. When the active facilities' *ex ante* productivity is lower than the inactive facilities' *ex ante* productivity, this approach provides an increase in hours and cost from workload transfer.

Unfortunately, the Public Representative's extra-record analysis mischaracterizes witness Weed's testimony. In its computation, the Public Representative applies PRC witness Weed's analysis as if it were a productivity analysis that takes place *after* the workload is transferred instead of *during* the transfer. This can be seen from the fact that the Public Representative's analysis accepts and applies Postal Service witness Bradley's approach to workload transfer and then apparently applies witness Weed's analysis.<sup>47</sup> But such a productivity effect can only occur from a change in operating procedures and sorting windows after the workload is transferred, which is not included in the part of witness Weed's analysis that the Public Representative adopts and modifies.

In essence, the Public Representative is applying two workload transfer analyses and no productivity analysis. This shows up in the numbers presented in the Appendix to the Public Representative's Initial Brief. For example, the first table presented in the Appendix, entitled "PR Calculation Productivity Changes," shows a 2.2 percent decline in productivity from applying witness Weed's workload transfer approach to the BCS cost pool. The next table, entitled "Direct Labor Cost Savings Using PR Productivities," shows a 2.2 percent in the column entitled "Productivity Induced Cost Saving." Similarly, the figure for "Opening BBM" is the same in both tables. This correspondence indicates that the Public

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<sup>47</sup> PR Initial Brief at 43.

Representative's actual calculations failed to use the modification of witness Neri's productivity analysis that the brief claimed to be using.

There are more curious and seemingly inexplicable results presented in the two tables. First, witness Weed's analysis shows an 11 percent productivity gain from workload transfer in the platform operation, but the Public Representative's cost savings calculation shows just a 9.92 percent productivity gain in that same operation. This would seem to suggest that applying the modified Neri positive productivity values somehow reduces the cost savings from productivity gains. Similarly, the first table shows a 29.8 percent productivity loss from applying witness Weed's analysis to the manual parcel operations, but the Public Representative's cost saving table shows a 42.52 percent decline in the same operation.

In sum, the Public Representative's unsupported and untested analysis of mail processing labor cost savings must be rejected. It contains essential conceptual flaws, anomalous and inexplicable results, basic computational errors, and insufficient documentation. Any one of these drawbacks would be sufficient for rejection of the analysis. One wonders how many other flaws might have been revealed if the Postal Service and other parties had been afforded the opportunity to conduct discovery, cross-examination, and rebuttal of the Public Representative's analysis.

#### E. The Postal Service Properly Determined Employee Relocation Costs.

On page 17 of its Initial Brief, NPMHU again attempts to litigate the specifics of individual AMP studies, this time alleging an improper calculation of

transition costs. Relying on the testimony of witness Hora (NPMHU-T-1), NPMHU claims that AMP studies do not adequately account for relocation costs or transitional workhour expenses. As reflected in the response to interrogatory USPS/NPHMU-T1-4 (Tr. Vol. 10 at 3344-45), NPMHU's argument about relocation costs is based solely on witness Hora's attempt to estimate the total relocation and transitional workhour expenses and match that to the AMP studies. As highlighted in the Postal Service's Initial Brief at pages 108-09, this analysis was flawed and the AMP studies provide a reasonable estimate of relocation costs.

- V. OPPOSITION TO RELIANCE UPON THE PHASE 2 QUANTITATIVE MARKET RESEARCH ESTIMATES OF THE IMPACT ON MAIL VOLUME CAUSED BY MPNR IS BASED ON WISHFUL THINKING, NOT SCIENCE.
  - A. The Only Valid Estimation Of Impact Upon Mail Volume Of Changes In Service Standards Derives From The Phase 2 Research.

Various Docket No. N2012-1 intervenors align themselves behind one phase or another of the market research results presented by the Postal Service without recognizing what they are doing: voting on the results believed to best serve their own positions.

Quite certainly, that is not what the Postal Service itself did, as reflected in its Initial Brief. The Postal Service direct case presented the market research upon which it relied. It did not rely upon other market research, such as Phase 1, that was incomplete and which studied a quite distinct set of circumstances that could impact volume entered by its customers.

Virtually no party addresses this issue head-on by comparing the concept statement of Phase 1 of the research versus Phase 2 concept statement, although GCA does acknowledge that only the Phase 2 research addresses change caused by MPNR alone. GCA Initial Brief at 9. The question presented by the instant Request for an advisory opinion is: what impact can be expected by MPNR upon mail volume? Indubitably, that question is answered directly by the Phase 2 market research presented by Postal Service witnesses. While MPNR is also described in the broad concept statement underlying the Phase 1 results, also manifestly clear is that various other challenges are *also* presented by that concept statement. As reflected by comments received during the qualitative research, customer concern goes beyond MPNR, and that is precisely what Phase 1 research proves. But that does not mean that Phase 1 results are a better estimate of the specific impact MPNR may have on customer volume.

What some parties approach, but do not manage to articulate, is that the Phase 1 research might better reflect the context into which MPNR might be introduced, with the consequence that the *joint impact* of MPNR and all those other financial and political challenges could well be greater than what Phase 2 alone shows. Notwithstanding, the legal question presented by the instant MPNR Request is: what impact upon mail volume does it portend, or to turn this question around, what volume will not be lost were MPNR not implemented? Without MPNR, the Postal Service will not lose volume *caused by* MPNR; that question is all, yet precisely, what the Phase 2 research answers. Astute observers of market research might take it one step further by asking and

answering the question: what will the impact on mail volume be if all of the matters described in the Phase 1 market research go forward except for MPNR? The two phases of research provide a ready response:<sup>48</sup> mail volume will be approximately the Phase 1 research minus the Phase 2 research results, or approximately an 8.5 percent decrease.<sup>49</sup>

Two ready avenues for assessing the validity of this hypothetical future mail volume fall readily to hand. First, how does a simple projection of the current rate of volume decrease compare? Electronic diversion, the consensus primary driver of mail volume decreases, would project a volume decrease substantially less than 8.5 percent—a topic largely not included in this case's discussion of quantified estimates of mail volume changes driven by service standards changes. Even if mail volume losses driven by the recent recession are included, one does still not approach 8.5 percent.

Second, which if any of all the various initiatives and challenges embodied in the Phase 1 concept statement are either likely or unlikely to be implemented? We know from the current state of law (and the absence of legislative action on the part of Congress) that 5-Day Delivery continues to be prohibited, as it has been for nearly four decades. Second, we know that mass closure of Post Offices or other retail facilities did not occur either after SBOC (Docket No.

<sup>&</sup>lt;sup>48</sup> This estimate is one created for purposes of estimation on brief; no expert testimony supports the combination of research results in this way.

<sup>&</sup>lt;sup>49</sup> In fact, the Postal Service market research design permits a much more nuanced way of expressing this expectation, since by stratifying customers into six segments, and analyzing product use via *applications* that enable translation into more specific products such as nonprofit Standard Mail, Presort First-Class Mail, *etc.*, much greater detail can be projected. But for purposes of this discussion, use of the single point estimates suffices.

N2009-1) or RAOI (Docket No. N2011-1), especially as POStPlan (PRC Docket No.N2012-2) goes forward largely unopposed. So we also know that the various possibilities identified in the Phase 1 market research concept statement are unlikely to reach fruition. Hence, any volume projection from that research (assuming its final results resemble the initial, tentative estimates available) would be a poor foundation for projecting future mail volumes.

Examination of the two phases of market research thus illustrates that the widespread exhortation that the Phase 1 market research results constitute a better estimate of future mail volumes if MPNR is implemented than the Phase 2 results is mere rhetoric, or the result of party voting, while lacking any reasoned, logical or empirical foundation.

Claims that the Postal Service hid its preliminary market research results from phase 1 lack any foundation in fact or law. The Postal Service provided all the information on which its Request relied; that did not include the Phase 1 results primarily because of its understanding that Phase 1 did not measure the impact of MPNR—the only question raised (from a market research perspective) by the filing of the instant Request. As summarized in the Postal Service Initial Brief, the Postal Service was worried well before any quantitative results were available that its attempt to place the Phase 1 research into a larger context was both incorrect and misleading. It then conducted an empirical investigation into whether its worries were well-founded. Were the concern unfounded, then the results of Phase 2 would have been similar to the Phase 1 results. The

quantitative difference in results constitutes a direct measure of the rather substantial divergence.

Discussion by participants of the market research quantitative results focuses upon claims (unsupported by qualified expert testimony) that use of the Juster Scale is not warranted. In its initial brief, the Postal Service summarized the evidence on this point: The Juster Scale is applicable to quantified estimates of future respondent conduct.<sup>50</sup> As the Chairman confirmed, for example, it was used to discount respondent estimates of future mailing volumes regardless of whether they forecast increases or decreases in mail volumes. Tr. Vol. 12 at 4462-64. So the Commission's conclusion in 5-Day Delivery that studies did not support use of the Juster Scale when service quality decreased was itself vulnerable to a lack of supporting evidence. To analogize, if evidence showed that some hypothetical scale were applicable to all colors, a claim that research does not show it applying to yellow misses the point. In this docket, continued claims that the Juster Scale does not apply when service is decreased also miss the point: the scale or its underlying principle applies when respondents provide quantified estimates. The Postal Service has provided examples where it was applied to service decreases, but the larger point that respondents tend to overproject quantified estimates of future behavior stands unrebutted by competent scientific testimony; it also happens to be consistent with related market research based evidence provided to the Commission over the last two decades.

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<sup>&</sup>lt;sup>50</sup> See Tr. Vol. 7 at 2314-19 (Elmore-Yalch response to Juster Scale questions posed during oral cross-examination); Tr. Vol. 3 at 561 (response to POIR1, Q20); USPS-T-11 at 44 and n. 3-4);

Every round of market research the Postal Service has presented to the Commission over nearly the last two decades has faced the issue of survey respondent likely over-estimation of projected behavior. This is a trait of survey research that projects future behavior; it is endemic to all such research, not limited to introduction of new products, forecasts of votes, or purchase expectations based on product attribute improvement or degradation. All market research suffers from this potential. The Juster Scale has become an industry accepted technique for weighting results so that they predict more accurately the actual behavior that then ensues.

Postal Service witness Whiteman identifies three long understood reasons for over projection: (1) customer awareness, (2) action is less decisive than respondents indicate and (3) market research compresses estimates of change to a single instant.<sup>51</sup> USPS-T-12 at 18.

The Commission reached a different conclusion in Docket No. N2010-1 (5-Day delivery), in a context where the Commission was pressured by many (as in this docket) to criticize Postal Service estimates of a financial future — no matter how well or by what methods those estimates were developed. The Commission's 5-Day Delivery opinion found a niche (a reasoned one, albeit incorrect) on which to hang its conclusion that the Postal Service's market research estimates were off, when it was unable to find literature supporting use of the Juster Scale in contexts where service quality was decreased. That

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<sup>&</sup>lt;sup>51</sup> Witness Whiteman's awareness of how this factor plays out explains his recognition, cited by some initial briefs, that measured change could occur after the first post-implementation year, notwithstanding a research design intended to measure impact upon volume in that first post-implementation year.

opinion confirmed the Commission's interest in the science underlying issues on which it opines. Relying upon that interest, the Postal Service has again approached the issue of known respondent overestimation of future quantitative behavior as a matter of science. The presentation in the instant case, Docket No. N2012-1 begins with the widely recognized reasons known to underlie overestimation of future behavior, found in witness Whiteman's testimony, USPS-T-12 at 18. First, research that applied to decreases in service quality was found and identified or produced. Second, the Postal Service emphasized that adjustment of respondent quantitative estimates is indeed a survey research industry standard applicable to quantitative estimates of future behavior — not some option used to cut back quantitative estimates for what would be to a market researcher, extrinsic reasoning (such as the assumed USPS interest in lower numbers). Adjustment of design or results with that intention in mind would be unethical according to the market research industry's ethical conduct standards that have been referenced for the Commission's benefit.<sup>52</sup> Third, in an apparent surprise to some, adjustments were made to estimates of both volume increase and volume decrease. The principle in play is respondent overestimation of quantitative results. It is not a principle of weighting or adjustment that applies only when the survey researcher's client is perceived to benefit from use of that technique — as many participants in this proceeding find it useful to argue. Such conduct would not be consistent with scientific process, which is all and only what the Postal Service has pursued in its market research.

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<sup>&</sup>lt;sup>52</sup> See, e.g., <u>www.CASRO.org/codeofstandards.cfm</u> cited in the Postal Service initial notice of filing nonpublic library references (United States Postal Service Notice Of Filing Of Applications For Non-Public Status For Certain Library References (December 9, 2011), at 3.

Historically, the Commission struggled with, but eventually accepted volume projected via market research in such cases as Docket No. MC96-3, (Special Services Reform) and MC99-1 (Mailing Online). In both cases, the Postal Service discounted its quantitative projections and despite some misgivings, the Commission accepted those projections as the basis for its decision.

Participant opposition to the Postal Service projection of post-MPNR mail volumes consists largely of wishful thinking. No participant weighs into the issue based on the science, although NALC and its wishful reliance on witness Crew's citation to his own book (without any page citation) would prefer otherwise. As such, the appropriate weight accorded to such argument would be that of a voting preference. But science does not find its way forward by asking lay persons to vote on the outcome they would prefer; instead, science proceeds via debate among knowledgeable experts wielding studies, typically published in peer-reviewed journals, that progressively narrow the gap between the sides until scientific consensus is revealed. While subsequent paradigm-busting change may upend the foundation for a particular scientific consensus, that, too, is part of how science proceeds to generate meaningful consensus. When a paradigm is

<sup>&</sup>lt;sup>53</sup> Witness Elmore-Yalch's surrebuttal testimony explains in precise detail the shortcomings of NALC witness Crew's testimony in this docket. USPS-SRT-4, sections II (First-Class Mail users value consistency of delivery over speed of delivery), III (survey respondents do understand probability), IV (weighting of survey respondents' volume estimates is necessary and appropriate to generating reliable estimates), V (confidence intervals are calculated correctly in light of the research design utilized), and VI (witness Crew's claims, repeated from 5-Day Delivery, fail to recognize improvements to the research design or the unavailability of data necessary to additional studies he recommends).

busted by new results, the process of narrowing and winnowing views to a subsequent consensus renews itself.

The Commission joined the issue of Juster Scale application in Docket No. N2010-1 (Five-Day Delivery) as a question of science. While the conclusion it then reached was contrary to accepted scientific consensus—as demonstrated more completely in this docket — the Commission's reasoning reflected its understanding of the scientific method and how debate leads to consensus. The Commission is well served by continuing to address such questions based on the underlying science in this docket and hereafter. The Postal Service is aware that it has paved the road of scientific understanding regarding use of the Juster Scale, or some cognate thereof, in quantitative market research where respondents project their future behavior (it is truly that simple) and trusts that the Commission now finds that road sufficiently well-marked. The Commission will nonetheless have plenty of room to question how robust the Postal Service estimation of MPNR's financial impact may be, if only because business decisions can rarely be based on data sufficient to establishment of the certainty or precision to which the Commission usually aspires.

The Phase 2 market research results presented by Postal Service Docket No. N2012-1 witnesses Whiteman (USPS-T-11) and Elmore-Yalch (USPS-T-12) thus provide the only reliable record evidence regarding the impact upon mail volume caused by MPNR. Hence the contribution loss of approximately \$500 million is the only reliable estimate available on this record. The market research was conducted in full accordance with industry standards; just because others

would prefer for the measurement to be higher (thereby facilitating argument in opposition to MPNR) is no reason for concluding that the market research is actually deficient. See USPS-SRT-4, sections I, II and IV.

### B. Confidence Intervals, Properly Utilized, Can Provide Useful Information About Survey Research Estimates.

Confidence intervals are valuable tools for evaluating statistical results. However, when used as NALC insists<sup>54</sup> (with confidence intervals necessary only around final estimates), one general principle is elevated inappropriately to obscure the fundamental strength of the research design utilized—which nonetheless provided necessary and appropriate confidence intervals by stratum. Use of confidence intervals as NALC insists is short-sighted, showing no more than surface understanding of statistics principles. By stratifying customers into segments, the Postal Service uses known attributes of customer groups to improve the accuracy and precision of the estimates. Knowing that customers in the respective strata make different use of the mail and use different applications for different purposes, the market research design uses this knowledge to improve the research. Confidence intervals are available for each segment, 55 and they do show variance across strata (and observing that confidence intervals could be tighter is tautological). The fundamental finding of the market research is that customer response to MPNR is modest, with most customers reporting no

<sup>&</sup>lt;sup>54</sup> This claim is echoed without real analysis by other MPNR opponents in their initial briefs.

<sup>&</sup>lt;sup>55</sup> Tr. Vol. 3 at 521-27.

changes in projected mail volumes (with distinct patterns shown across mailer strata). <sup>56</sup>

While the market research design could have been intended to produce a single confidence interval, that approach would have sacrificed the value drawn from stratifying the respondents. The lack of a confidence interval around just one of the various results applicable across mailers is a drawback only if one takes a simplistic view and is unable to recognize the value to overall research embodied in stratifying the sample, and unable to recognize the value confidence intervals provided for each stratum. The general criticism that lack of confidence intervals across mailers does constitute a drawback, but one that is answered directly by the strata level confidence intervals, and the value to the results the research design brings. See USPS-SRT-4, section V.

Albeit without much in the way of meaningful discussion, various parties repeat certain criticisms given voice by NALC witness Crew regarding confidence intervals, the most frequent of which is whether normal distributions are assumed for responses. Postal Service witness Elmore-Yalch notes that normal distribution is usually assumed in market research, which reflects the usual market research expectation that responses will cluster in what reflects a bell-shaped curve around estimates provided by respondents. In this instance, a normal distribution was not the result because respondents tended to report no change in projecting mailing patterns, meaning that responses instead clustered around zero. But as noted in her surrebuttal testimony, reports of confidence

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<sup>&</sup>lt;sup>56</sup> Similarly, the impact of the "solely attributable" factor was modest. Tr. Vol. 3 at 558-560 (Response to POIR1, Q19).

intervals for such clustered responses are the same as those produced under the assumption of normal distributions, except that they are bounded by, for example, zero. In accordance with standard market research industry practice, she did not bound her reported confidence intervals when first provided.

However, any party interested in doing so can apply those bounds it believes are best applied. See Tr. Vol. 12 at 4402-05, 4476. No parties took advantage of the opportunity to do so in their initial briefs or otherwise. But claims that confidence intervals are misreported are themselves erroneous.

# C. The Public Representative Conflates Risk Sources Thereby Wandering Off The Reservation.

At pages 23-24 of its Initial Brief, the Public Representative (PR) makes a speculative argument about sources of risk that treats risk as if it all exists in a single domain. First, the PR mentions risk for the Postal Service inherent in the market research, which witness Elmore-Yalch confirms is a risk of underestimating the negative financial consequences of MPNR. But then the Public Representative ties such risk to the quite distinct risk that the market research industry corrects for using such techniques as the Juster Scale. Since survey respondents over-project their quantitative estimates of future behavior, established market research industry practice is to correct for such risk with the purpose of arriving at accurate estimates of future behavior. The Public Representative treats these as if the two forms of risk partake of the same scale. Yes, they both exist, and they run, in some sense, in opposite direction. But in no sense are the two offsetting; market research conducted without correcting for survey respondent over-projection would not be consistent with industry

standards and would generate results that would be inaccurate. And using financial risk to the Postal Service as a reason for introducing bias into the survey research design or calculation of results would be both bad science and unethical. Witness Elmore-Yalch never says risk borne by a Postal Service business decision could or should have any role in designing the MPNR market research efforts to measure response as accurately as possible. The ethical standards to which she adheres (which the Commission itself cites<sup>57</sup>) would forbid her from confusing or conflating these distinct sources of risk. The Public Representative cites to no evidence to support its failure to distinguish these distinct forms of risk. <sup>58</sup>

D. The Quantitative Market Research Results Stand Un-rebutted As The Only Accurate Estimate Of Change In Mail Volume, Revenue And Contribution Caused By MPNR.

Opposition by participants in this case to MPNR is plain through their arguments, testimony and wishful criticism of the market research based estimates of changes in mailer volume, revenue and contribution that MPNR will itself cause. That is all and only what the market research establishes. Criticism that the market research did not measure volume from impacts of other initiatives is correct and consistent with the purpose of this proceeding in which an advisory opinion regarding MPNR itself is sought.

Docket No. N2012-1 participants have in effect thrown any and all imagined criticism at the market research that any one of them could conceive.

64

N2012-1 USPS Reply Brief

<sup>&</sup>lt;sup>57</sup> See Order Denying Motion to Unseal Further Non-Public Library References USPS-LR-N2012-1/NP1 and NP14 (April 12, 2012) at 5, 6.

<sup>&</sup>lt;sup>58</sup> Nor does the Public Representative's argument seem intended to imply that anything unethical occurred here, even if that is what the logic of the argument implies.

NALC witness Crew's criticism is without merit . Postal Service witness Elmore-Yalch's surrebuttal testimony, USPS-SRT-4, examines each of his various contentions and provides cogent, unrebutted explanations for why his criticism lacks any foundation in science or market research standards. While her testimony did not stop other participants from repeating witness Crew's claims, participants have failed to provide any better foundation for his testimony than Dr. Crew himself or NALC even bothers to argue. Indeed, the NALC Initial Brief could well have been written shortly after Dr. Crew's testimony was filed, as it fails even to address to surrebuttal testimony demonstrating that most of his testimony lacks support and credibility.

Witness Crew does stand in the shoes made by the Commission's opinion in 5-Day Delivery, wherein the Commission struggled with the science to reach its conclusions at the time. The Commission's rejection of quantitative market research in Docket No. N2010-1 was inconsistent with the principles of market research. As demonstrated in the extensive evidentiary record in the instant case, the record before the Commission includes citations to the types of studies the Commission claimed in its earlier opinion were then absent.

The Postal Service market research estimates of MPNR-caused mail volume changes are the best and only evidence in the Docket No. N2012-1 record. The Phase 1 market research results, which participants do find more pleasing for purposes of their argument, did not measure change caused by MPNR. Nor did Phase 1 measure MPNR-caused change in the current context

of postal affairs, since its concept statement includes measures that simply are not occurring in the current context.

While we may all hope that Congress takes meaningful action to resolve the financial challenges resulting from enactment of the Postal Accountability and Enhancement Act in 2006, the Postal Service must plan for all potential outcomes, including ones where Congress does not take further action. The best the Postal Service can do to enable its continued existence is to move forward with implementation of MPNR on the schedule it has described at 77 Fed. Reg. 31190 (May 25, 2012) and elsewhere. MPNR presents a financial picture with operational cost savings based of approximately \$2.1 billion. These savings are offset by approximately a \$500 million loss in contribution, based on the Phase 2 market research. While a staged implementation of MPNR offers additional challenge to the Postal Service decision, and to the Commission's advisory opinion about it, the larger context is replete with challenge when no estimation of future financial impact offers any comfort that perfection would bring. But the evidence of record establishes that the quantitative market research utilizes state-of-the-art techniques to generate the best possible and most accurate projections of six customer segments' response to MPNR-driven service standards changes. While all market research by definition generates only estimates, ones that can be improved by bigger samples, more time or replication, no record evidence establishes that the million or so dollars spent on the research should instead have been two million.

#### E. Supplement.

The Postal Service remains concerned that at this late stage in the proceeding the Commission has apparently yet to replicate the fundamental market research estimates. Most recently, the Postal Service filed the response of witness Elmore-Yalch to Presiding Officer's Information Request No. 9, Question 1 as amended at the close of surrebuttal testimony earlier today. The Postal Service hopes this finally enables the Commission's replication efforts.

A technical conference earlier in this proceeding may have averted this situation. See Response Of United States Postal Service Witness Elmore-Yalch To Presiding Officer's Information Request No. 9, Question 1, As Amended By Tr. Vol. 12 At 4501 (July 20, 2012). That response uncovered an error in the calculation of the market research results. While not record evidence, the Commission will be able to calculate from materials filed by witness Whiteman (which the Commission presumably has been able to replicate to its satisfaction), that the error uncovered during investigation of the POIR9, Q1 response changes his final estimates for the total market research estimates of loss (from USPS-T-12, Chart 1 at 22): the loss of revenue would drop from \$1.345 billion to \$1.137 billion or by \$208 million, and the loss of contribution would drop from \$501 million to \$423 million or \$78 million.

- VI. OTHER INTERVENOR CRITICISMS ARE UNPERSUASIVE AND LACK EVIDENTIARY SUPPORT.
  - A. National Newspaper Association's Concerns Are Speculative And Unsubstantiated.
    - 1. NNA underestimates the Postal Service's willingness to consider the Commission's advice and the concerns of stakeholders and rural residents.

NNA's assertions that the Postal Service is unwilling to consider the views and concerns of the Commission, stakeholders, and rural residents are not supported by the record. NNA asserts that the number of witnesses and library references submitted by the Postal Service and the volume of transcript pages generated in this docket indicate that the proposed changes "carry grave implications for mailers, workers, and the future of USPS." NNA Initial Brief at 6. Although there is no reason to believe that any correlation exists between the *number* of witnesses, library references, and transcript pages and the significance of the proposed changes to stakeholders, as NNA implies, the Postal Service acknowledges that the service-standard changes proposed in this docket are substantial and accordingly has sought an advisory opinion from the Commission in accordance with its statutory obligations. Compare id. with USPS Initial Brief at 8. Contrary to NNA's assertion, the Postal Service is committed to reviewing and considering the Commission's advisory opinion when it is issued. USPS Initial Brief at 12.

NNA's concern that the Postal Service did not consider whether the proposal will discourage rural residents from using the mail is based purely on speculation. See NNA Initial Brief at 12. NNA cites no record evidence to

support its concerns that rural residents will "withhold their First-Class Mail, perhaps by paying bills at work where broadband is available," "begin concentrating their shopping for periodic visits to larger city malls rather than ordering from catalogues," or "use alternative services for their package delivery, enabling other carriers to profitably open up customized services in smaller towns." Id. at 12. NNA complains that the Postal Service blocked the inclusion in the evidentiary record of comments submitted by many South Dakota residents. Id. at 11. NNA claims that the absence of these comments from the evidentiary record in this docket "leaves a gaping hole in the understanding of both the USPS and the Commission on the importance of the mail in rural America."<sup>59</sup> *Id.* at 11-12.

NNA's complaint is baseless; the Postal Service did not seek to block these comments from consideration by the Commission. United States Postal Service Motion for Treatment of Library Reference NNA-LR-N2012-1/1 as Informal Statements Submitted Pursuant to Rule 20b (May 1, 2012) at 2-3 ("The Postal Service submits that the public comments speak for themselves and that they can be analyzed and evaluated independently from witness Bordewyk's testimony."). Rather, the Postal Service objected on the grounds that the materials should have been filed in accordance with Rule 20b, and accordingly, they should be segregated from the evidentiary record in accordance with the rule. Id. Otherwise, parties could circumvent Rule 20b's directive by submitting

69

N2012-1

<sup>&</sup>lt;sup>59</sup> There is simply no basis for NNA's implied claim that Mail Processing Network Rationalization was premised on the assumption that "moving mail long distances from smaller communities so it can be processed and delivered, albeit more slowly, through the use of USPS's urban centers is ok with rural America." NNA Initial Brief at 12.

comments in the form of a library reference and then moving to have that library reference be entered into evidence. *Id.* Moreover, NNA appears to ignore the fact that these comments could have had more practical value if the commenters had chosen to submit them in response to the Postal Service's advance notice of proposed rulemaking or proposed rule concerning the proposed service-standard changes.

NNA speculates that Commission recommendations contained in the forthcoming advisory opinion will be "mooted by the rollout of the Postal Service's first phase of implementation, and even by investments and network changes being laid into place for the second and third phases." NNA Initial Brief at 6. The Postal Service sought to minimize such risk by forestalling implementation of related service changes until May 2012. USPS Initial Brief at 12. However, the Postal Service's experience in PRC Docket No. N2010-1, in which the Commission did not issue its advisory opinion until 361 days after the filing of the Request, demonstrates that the Postal Service cannot wait indefinitely for the Commission to issue its opinion before taking steps to make changes that are necessary for the long-term viability of the institution. *See id.* at 4-5, 12. The Postal Service will evaluate its network rationalization implementation plans in light of such advice as the Commission may offer.

2. NNA's concerns regarding the impacts of Network Rationalization lack evidentiary support or are tangential to the core issues in this proceeding.

In its Initial Brief, NNA cites no evidence for its assertion regarding the adverse impacts of processing flat mail with First-Class Mail at gaining sites.

NNA Initial Brief at 4. The Postal Service has already highlighted the fact that most of NNA's assertions regarding the impact of network rationalization on community newspapers and other mailers are either based on anecdotal information or are unsupported by record evidence. Compare id. at 3-4, 10-11 and 16 with USPS Initial Brief at 118-20. NNA's other concerns and criticisms have also been addressed by the Postal Service's Initial Brief, including NNA's mischaracterizations of the Postal Service's proposal and NNA's flawed attempt at analogizing the proposal to hypothetical decisions made by newspaper printers. Compare NNA Initial Brief at 4, 6, and 12-13 with USPS Initial Brief at 115-16. Additionally, the Postal Service has dispensed with NNA's overstated claims regarding the "combined effects" of Network Rationalization and the difficulties that some community newspapers appear to have encountered when attempting to bring their mailing operations into compliance with various postal policies and regulations. Compare NNA Initial Brief at 15-17 with USPS Initial Brief at 120-21. Furthermore, NNA makes no attempt to quantify the alleged impact of the proposed service-standard and network changes on "Standard Mail shoppers" and "TMC publications." NNA Initial Brief at 17.

Finally, NNA's complaints that the Postal Service has not sufficiently clarified how certain aspects of the rationalized network will operate are of no consequence to the Commission's advisory opinion. Implementation issues such as the handling of local, time-sensitive publications, the overnight delivery of periodicals, the number and scope of delivery units, and the locations of transportation hubs and BMEU's (*Id.* at 3) and other matters such as the

effectiveness of the Postal Service's tools for measuring newspaper delivery speed (*id.* at 16) can be addressed as the Postal Service transitions to the rationalized network. However, these matters need not be fully resolved in order for the Commission to consider whether the proposed service changes comport with polices of title 39. Furthermore, NNA's related claim that this proposal has "injected substantial uncertainty" into the mailing community has been thoroughly addressed in the USPS's Initial Brief. *Compare id.* at 3 and 6 *with* USPS Initial Brief at 118. Accordingly, NNA's concerns have been addressed in this docket.

#### B. Mr. Popkin's Initial Comments Should Be Rejected Or Dismissed.

Intervenor David Popkin filed Initial Comments, the status of which is unclear. His comments could be interpreted as a series of factual assertions to which he wishes the Commission to give evidentiary weight as it formulates its advisory opinion. If so, the Postal Service submits that such assertions should have been filed months ago in the form of rebuttal testimony on the same schedule and subject to the same terms as similar submissions by other limited participators. See 39 C.F.R. § 3001.20a. For failure to comply with that rule, the Postal submits that Mr. Popkin's Initial Comments should not be accorded evidentiary status by the Commission and that no party should be prejudiced for failing to reply to them. If the Initial Comments are otherwise to be interpreted as an initial brief, the Postal Service responds below.

Without any evidentiary support, Mr. Popkin contends that the Postal Service does very little to publicize service standards to single-piece mailers. To the contrary, the Commission is able to take notice under 39 C.F.R. § 3001.31(j)

that the Postal Service provides numerous means through which individuals and other smaller mailers are able to become informed about service standards applicable to their mail. Most notably, the Postal Service has had in existence for years an online tool at usps.com, the Postage Price Calculator (available at http://postcalc.usps.com/) which allows customers to choose the originating and destinating ZIP Codes, the date and time of mail entry, and the type of mail product. The Postage Price Calculator will then provide the expected date of delivery and price for the item. In addition to the online tool, expected date of delivery for an item, based on service standards, has been available for years from Automated Postal Centers located at many thousands of postal retail locations, on the credit card terminals at the retail counters of Post Offices with POS terminals, and the customer receipt for the same offices. Many decades before the advent of these self-service technologies, postal retail clerks and postmasters began the practice of providing customers with expected date of delivery information upon inquiry. There is no basis for expecting that longstanding practice to cease. Finally, as Mr. Popkin is aware, the Postal Service publishes its service standards in detail in Parts 121 and 122 of title 39 of the Code of Federal Regulations. In sum, the Postal Service provides numerous avenues for consumers of all types to access information about service standards.

In his Comments, Mr. Popkin also constructs a hypothetical scenario to depict how long it could take for a letter to be delivered if a series of unrelated circumstances should all combine to affect acceptance, dispatch, processing and

delivery. His extreme hypothetical provides virtually no insight regarding transit times that mailers routinely experience today or would experience in the network currently being implemented. His hypothetical reveals a penchant for highlighting extremely unlikely scenarios that are within the realm of possibility, but he provides no basis for the Commission to conclude that his scenario would ever affect more than an infinitesimally small percentage of volume.

#### VII. CONCLUSION.

For the foregoing reasons, the Postal Service submits that the Postal Regulatory Commission should opine that it has received from the Postal Service substantial evidentiary record explanation of the factual and policy bases for the planned service changes and why those changes reflect a reasonable balancing of the various service and efficiency objectives of title 39, United States Code. The Commission should find that the parties opposed to the service changes have raised concerns worthy of serious consideration, but have offered insufficient evidentiary, policy and legal arguments to justify a different conclusion. Accordingly, the Postal Service respectfully requests that the Commission issue an opinion that advises that the service changes under review are ones that the policies of title 39 permit the Postal Service to implement, supplemented by such other advice as is appropriate to the Commission's role under section 3661.

74

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